

***United States Court of Appeals  
for the Second Circuit***



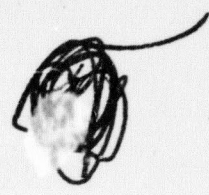
**APPELLANT'S  
APPENDIX**





# 76-1495

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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PFS 

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UNITED STATES OF AMERICA,

Appellee,

-against-

EUGENE SCAFIDI, BARIO MASCITTI,  
ANTHONY DI MATTEO, SAVERIO CARRARA,  
MICHAEL DELUCA, JAMES NAPOLI, JR.,  
JAMES V. NAPOLI, SR., ROBERT VOULO  
and SABATO VIGORITO,

Appellants.

: JOINT APPENDIX TO BRIEF  
FOR APPELLANTS  
:  
Docket No. 76-1495  
:  
Appeal from a conviction  
in the United States District  
Court for the Eastern  
District of New York  
:  
VOLUME II  
:

-----X

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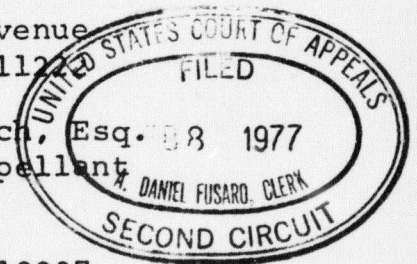
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Pascocello - direct

R A P H A E L A P A S C O C E L L O , called  
as a witness, having been first duly sworn by the  
Clerk of the Court, testified as follows:

THE COURT: Mr. Napoli, Jr., would you please  
be seated?

DEFENDANT JAMES NAPOLI, JR.: I just want to  
get my aunt on the witness stand.

THE COURT: Oh.

DIRECT EXAMINATION

BY MR. WILD:

Q Mrs. Pascocello, would you please keep your  
voice up so everyone can hear you?

A I'll try.

Q Now, how old are you?

A How old? Seventy-three.

Q And are you related to James Napoli, Sr.?

A Yes, sir.

Q And how are you related to him?

A I'm his sister.

Q And do you see him in the Courtroom today?

A Yes, sir.

Q And would you point him out?

A Over there.

MR. WILD: Will you stand up, Mr. Napoli?



Pascocello - direct

9

1

2

Q Is that the gentleman who just stood?

3

A Yes, sir.

4

MR. WILD: Indicating James Napoli, Sr.

5

Q Are you also related to James Napoli, Jr.?

6

A Yes, sir.

7

Q And do you see him in the Courtroom today?

8

A Yes, sir.

9

Q Would you point him out, please?

10

A There.

11

Q Is he the gentleman who just stood?

12

A Yes, sir.

13

Q Thank you. Indicating James Napoli, Mr.

14

And James Napoli, Jr., is your nephew?

15

A Yes.

16

Q Now, are you a widow?

17

A Yes.

18

Q And what was your late husband's name?

19

A Anthony John Pascocello.

20

Q And when did your husband pass away?

21

A 1970.

22

Q Approximately when?

23

A In September.

24

Q Now, what business was your husband in at the

25

time that he passed away?

1                   Pascocello - direct                   10  
2           A       The Ampas Lounge.  
3           Q       Is that Ampas Tavern, Inc.?  
4           A       Yes, sir.  
5           Q       And what -- is Ampas the name that was  
6           selected as a shortening of Anthony Pascocello?  
7           A       Yes, sir.  
8           Q       Now, what is the business of Ampas Tavern,  
9           Inc.?  
10          A       What do you mean, what business?  
11          Q       What -- does it do business under a certain  
12          name?  
13          A       The Ampas Corporation?  
14          Q       Yes. Is there a name under which it does  
15          business?  
16                   THE COURT: Highway Lounge?  
17                   THE WITNESS: The Highway Lounge, yes.  
18                   The Ampas --  
19                   THE COURT: Can a corporation do business  
20                   under an assumed name?  
21                   MR. WILD: Yes, your Honor.  
22                   THE COURT: Really?  
23                   THE WITNESS: The Highway Lounge.  
24                   THE COURT: All right.  
25                   Some place in the back of my mind, I understand



Pascocello - direct

11

that it couldn't, but I may be wrong.

Go ahead. It could have a brand. It could have a trade name, but I doubt that a corporation can do business under a trade name.

But go ahead.

THE COURT: Who has the license for Highway Lounge?

THE WITNESS: We have that.

THE COURT: Under which name?

THE WITNESS: Anthony Pascocello.

MR. WILD: If your Honor please, Mr. Barlow has subpoenaed all the SLA records. I believe they're in the Court.

I believe Mr. Barlow will stipulate that they reflect that there is a license issued to Ampas Tavern, Inc., doing business as the Highway Lounge.

MR. BARLOW: Yes, sir. We so stipulate.

THE COURT: Then apparently I am wrong but I am not ready to concede it at this point.

Go ahead.

BY MR. WILD:

Q Mrs. Pascocello, after your husband died, did you succeed to his stock in Ampas Tavern?

A Yes.

1 Pascocello - direct 12

2 Q And are you the president of that company?

3 A Yes, sir.

4 Q And where is Ampas -- where is the Highway

5 Lounge?

6 A 326 Metroplitan Avenue.

7 Q On what streets is it?

8 A Near Havemeyer.

9 Q The intersection of Havemeyer and Metropolitan

10 Avenue?

11 A Metropolitan Avenue.

12 Q Now, after your husband passed away, did

13 you discuss -- withdrawn.

14 The Highway Lounge is located in the building

15 at that location you mentioned?

16 A Yes.

17 Q Who owns those buildings?

18 A We do. I do.

19 Q All right. Is that owned in a corporate name?

20 A In the corporation.

21 Q And what is the name of that corporation?

22 A The Ampas Corporation.

23 Q Is that 83 Havemeyer Corporation?

24 A 83 Havemeyer Corporation.

25 Q And what besides the Highway Lounge is in



A178

1 Pascocello - direct 13

2 those buildings?

3 A Tenaments.

4 Q Apartments?

5 A Apartments.

6 Q How many apartments?

7 A I think there are eight.

8 Q Now, after your husband passed away, did

9 you have a discussion with your brother, Mr. Napoli, Sr.?

10 A Yes.

11 Q Concerning who would operate or look after

12 the Highway Lounge and the buildings for you?

13 A I did.

14 Q And did you ask him to do anything with

15 respect to that?

16 A I did. I asked him if he would take over

17 the whole situation, take over for me.

18 Q What did you ask him to do?

19 A Well, if he would run the place, do the

20 buying, the selling and taking the rents and everything

21 else.

22 Q Did that include making repairs on the building?

23 A Repairs also, yes, sir.

24 Q Arrangement for payments for supplies?

25 A Yes, sir.



A179

Pascocello - direct

14

1

2

Q And did you give your brother a key?

3

A Yes, sir.

4

Q Did you ask your nephew if he would also

5

assist in that?

6

A I asked him, yes, and he said he would.

7

Q And do you have a key?

8

A No.

9

Q To the best of your knowledge, who has the

10

keys to the Highway Lounge?

11

A My brother and his son, Junior, and the bar --

12

the barmaid.

13

Q And do you know the barmaid?

14

A Yes, sir.

15

Q What is her name?

16

A Rose. That's all I know her.

17

Q Now, are bills for the Highway Lounge paid

18

by check?

19

A By check.

20

Q And do you sign those?

21

A I sign all the checks.

22

Q And who -- withdrawn.

23

Do you have the checks there or does someone

24

bring them to you for your signature?

25

A They bring them to me and I sign them.

Q Who brings them to you?



Pascocello - direct

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A Junior.

Q Is it the responsibility of your brother and his son, Junior, to open and close the Highway or see that it is opened and closed?

A Yes, sir.

Q And what about hiring any help?

A They do all that.

MR. WILD: May I have just a moment to speak with Mr. Barlow, your Honor?

THE COURT: Surely.

MR. WILD: Your Honor, I have no further questions.

Mr. Barlow and I will stipulate.

THE COURT: Any other defendant want to ask questions?

MR. O'BRIEN: No, your Honor.

THE COURT: Go ahead, Mr. Barlow.

(Continued on next page.)



1 Mr. Barlow to argue it was an identification. There  
2 was no showing that he heard the voice?

3 MR. FRANCONERO: None. Mr. Barlow was asking  
4 from a transcript, was there a conversation between  
5 Mr. Rossi and Mr. Napoli on page something or other.  
6 I can show it to the Court. He said yes, there was.  
7 What was the nature of the conversation -- I think  
8 Mr. Barlow will concede Mr. Parsons' purpose before  
9 the Grand Jury was not an identification of Mr. Rossi's  
10 voice but rather an interpretation of the conversation.  
11 Just an interpretation of the conversation.

12 THE COURT: If there was no proof before the  
13 Grand Jury that Mr. Liesegang had heard the voice then  
14 I would say it is not an identification of the voice --  
15 if that is all there is.

16 Gentlemen, Juror No. 3 again has failed to show.  
17 That is Mr. Martinez.

18 THE CLERK: That is correct.

19 MR. FRANCONERO: I don't mean to go on with this,  
20 but I'm willing to look at the transcript and determine  
21 if there has been identification --

22 THE COURT: The case isn't over yet.

23 MR. BARLOW: I think we are talking about  
24 sufficiency of the evidence before the Grand Jury. No?

25 MR. FRANCONERO: No.



1 THE COURT: Not sufficiency of the evidence,  
2 he's talking about the right to say neither Mr. Liesegang  
3 nor Mr. Parsons identified the voice before the Grand  
4 Jury.

5 Now, they come into the Court and say I know  
6 his voice. He's claiming it's an inconsistent statement.

7 MR. FRANCONERO: Yes.

8 MR. BARLOW: If there is a big to-do about that,  
9 I would ask for a charge on what evidence is necessary  
10 for the Grand Jury.

11 THE COURT: No, we are talking about whether you  
12 may say there is no showing that he was asked the  
13 question whether he knew the voice.

14 MR. FRANCONERO: I don't have any problem with  
15 that rebuttal.

16 THE COURT: Then, I think both comments are  
17 fair.

18 MR. FRANCONERO: Thank you.

19 THE COURT: What should we do about your number  
20 three?

21 THE CLERK: The jury clerk is going to call.

22 THE COURT: Anybody object to replacing Juror  
23 No. 3 with Alternate No. 1?

24 MR. FRANCONERO: That will take a conference.

25 THE COURT: A quick conference. I refuse to



1 wait ten or fifteen minutes. He's the man that comes in  
2 sometimes out of breath and this is the second time  
3 he's been late.

4 MR. WALLACH: Can I have made part of that exhibit  
5 a decision of the Appellate Division?

6 THE COURT: What?

7 MR. WALLACH: That exhibit I handed in yesterday,  
8 this is the decision of the Appellate Division. This  
9 is the entire case, if your Honor cares to look at it.

10 THE COURT: I don't think it will have any  
11 effect.

12 MR. WALLACH: This may be deemed insufficient  
13 when they review the conviction.

14 THE CLERK: Eight millimeter film marked  
15 Government's Exhibit 321 for identification.

16 (So marked.)

17 THE CLERK: Judge, Juror No. 3 left his home  
18 15 minutes ago.

19 THE COURT: Whatever that means.

20 (Pause.)

21 THE COURT: They said \$350. If he only made  
22 \$175 on the gambling deal, don't take \$300 from him --

23 MR. WALLACH: I was hoping for --

24 THE COURT: This was strictly a question of  
25 dollars and cents.



1                   Gentlemen, I am for substituting Alternate 1  
2 for Juror No. 3.

3                   MR. WALLACH: Can I have this marked?

4                   THE COURT: Yes.

5                   THE CLERK: It is marked part of Defendant's  
6 Scafidi's Exhibit S which has already been marked.

7                   MR. WALLACH: Thank you.

8                   THE COURT: Any objection to it? Gentlemen, who  
9 objects?

10                  MR. PIAZZA: I object, your Honor.

11                  MR. RASKIN: I would object.

12                  MR. PASSALACQUA: I object.

13                  THE COURT: Why, Mr. Passalacqua?

14                  MR. PASSALACQUA: Your Honor, he's been on time  
15 more than he has been late.

16                  THE COURT: I am only talking about time lost.  
17 Anybody else?

18                  MR. LEVY: I object.

19                  MR. LAIFER: He may be in the back, Judge.

20                  THE COURT: He left his home 15 minutes ago.  
21 We might have to wait until 10:30.

22                  MR. NEWMAN: I object.

23                  THE COURT: That is Mr. Newman?

24                  MR. NEWMAN: Yes.

25                  THE COURT: Anybody else?



1 MR. MELTZER: I do.

2 THE COURT: Everybody objects. Bring in the  
3 jury. I find court time is too valuable and in my  
4 discretion I am replacing him.

5 MR. BARLOW: We have several more voir dres.  
6 It doesn't matter to me whether the jury comes in now  
7 or not. We still have the 17th and the motion picture  
8 of Mr. Annarumo.

9 THE COURT: Let's complete what we were doing  
10 yesterday. Can we go into May 15th?

11 MR. NEWMAN: The jury is coming in.

12 THE COURT: The jury can come in.

13 MR. NEWMAN: Fine.

14 (The jury is in the jury box without Juror No. 3.)

15 THE COURT: I'm sorry, we can't wait any longer  
16 for Juror No. 3. I will ask Alternate No. 1 to take  
17 the place of Juror No. 3. Number 3 is excused. You  
18 may move up.

19 You may proceed, Mr. Barlow.

20  
21 (Continued on next page)  
22  
23  
24  
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MR. NEWMAN: I am sorry to interrupt. I notice that before we started to play the tape the number two juror was there. I request the material be replayed and he be --

THE COURT: Denied. Seat the jury. I already excused juror number three.

MR. NEWMAN: May the record indicate my application?

THE COURT: Everybody objects to it.

MR. LAUBER: This is allegedly my client's voice and I think --

THE COURT: Everybody has the same objection. Don't repeat it. I exercised my discretion and I will not reverse that decision.

MR. RASKIN: May the record reflect we saw number three standing outside at 10:15 and the jury was seated at 10:14.

THE COURT: I think he came in two or three minutes after we started. To me, that is enough.

MR. BARLOW: For the record, the Government took no position one way or the other.

(The jury is in the jury box.)

THE COURT: Please continue.

(Tape played.)

A There was an inaudible part by Mr. Mascuzzio followed by James Napoli, Sr.: "You're going, you're going to



19

1

2

A Maybe a few. In the earlier days.

3

I'm talking about completed transcripts

4

though.

5

Q Yes?

6

A Where agents sat down and did the whole

7

thing. I had the agents sit down occasionally and some-

8

thing I felt was rather important or they had a question

9

about and they might do a half page in longhand. Then

10

they'd go back and do a complete job with the whole tape

11

later.

12

Q

In other cases would you have the agent or

13

yourself summarize the conversations as best you could

14

for the purpose of the affidavit?

15

A

Yes. Yes, I did.

16

Q

Going to Mr. Wild's questions, concerning

17

the -- by the way, if I tell you that excerpts of some of

18

the conversations from the 1970 wiretaps were in Highway 1's

19

affidavit, would you believe me?

20

THE COURT: I suppose Mr. Parsons' would

21

believe anything you told him but what does that

22

have to do with it?

23

MR. BYFLOW: I'll just go on to something

24

else, your Honor.

25

Q

Okay. You indicated that some time before



1  
2 the Highway 1 surveillance, you knew about Mr. Carrara.  
3 Can you remember what sort of evidence that you had that  
4 might have been used for probable cause against Mr.  
5 Carrara for Highway 1?

6 A None.

7 Q And at the time of Highway 1, other than  
8 knowing that he was at the Highway Lounge, what other  
9 evidence did you have against Mr. Vigorito at that time?

10 A We had no evidence against Mr. Vigorito.

11 MR. BARLOW: That's all the questions I have.

12 THE COURT: Anything further?

13 MR. BARLOW: Oh, excuse me. I should ask  
14 about Mr. Annarumo.

15 BY MR. BARLOW:

16 Q Do you remember any evidence that we had  
17 against Mr. Annarumo before he was -- before the Highway  
18 Lounge 1 interceptions?

19 A No. I was told that he had been arrested  
20 previously by the police department and was part of this  
21 operation and that was about the extent of my knowledge of  
22 Mr. Annarumo.

23 THE COURT: Anything further?

24 You may step down.

25 MR. BARLOW: No, sir.



But I would like the --

THE COURT: Let's be clear on one thing. I was only talking about Judge Judd's order which permitted the entry and did not talk about seizing conversations. That's all I was talking about.

MR. ADLER: I would like the record to reflect that while we -- Mr. Vigorito does not allege a possessory or proprietary interest, we claim that the -- to the extent that the Government entered the premises to install, move or rejuvenate, or to ultimately remove any of the eavesdropping devices in this case which were ultimately used to seize these conversations, that to the extent that a Federal statute does not set forth a basis for the Government to make an unlawful entry into the premises, or, (b) that the Government did not show the judge who authorized the electronic surveillance in these cases that there were no other means applicable but a so-called black-bag entry to install or rejuvenate or remove the device, we submit we have standing to join with Mr. Wild.

THE COURT: This is only a recent argument. This was not made before. This argument came out of my discussions about Judge Judd's order and then it spilled over. We started talking about the right



of the Government to come in under any order authorizing a bugging and entry. So when you say that you made this application before, I don't know what you mean by that.

MR. ADLER: Well, I thought I had made it clear when we were last -- when counsel were here the last time that we were discussing the question of standing. And I thought it was clear at that time that we contend that to the extent that our conversations were seized under any order of Judge Bartels or Judge Neaher, that to the extent that the Federal statute which -- under which the eavesdropping was authorized, that the Government installed the eavesdropping device in a surreptitious manner by unlawfully entering the premises. We object to the installing. And I thought your Honor's position was that but for Mr. Napoli, who allegedly -- and subject to your Honor's ruling today as a finder of the facts, you had indicated that no one else had standing. I just wanted to --

THE COURT: No one had standing to challenge the order of Judge Judd except one who had a proprietary interest. Now, from that I find --

Will you sit down, Mr. Wild, until I get through with one?



5 1 From that I find that if you didn't have standing  
2 to challenge Judge Judd's order of May 3rd, whatever  
3 it was, that the subsequent orders did not require  
4 entry into the premises, so that there is no problem  
5 on those orders.

6 Now, your argument I think -- though you make  
7 it as to all the orders -- I know -- your argument,  
8 I think, would challenge the right of the Government  
9 to enter from the very first order of Highway Lounge.

10 MR. ADLER: Yes.

11 THE COURT: I think it's more of an effective  
12 argument than the subsequent entries. And you say  
13 that they must get authorization to make a legal  
14 entry or would be an unlawful entry in the bugging  
15 order. Now, there isn't a case on it.

16 MR. ADLER: That's correct.

17 THE COURT: And I understand there is no  
18 legislative history on it. And I have been reading  
19 Judge Gesell's decision. And, of course, he  
20 interprets the DC code on wiretaps. And that's  
21 another question that I will have to listen to  
22 argument on or do some research or a lot of guessing  
23 on. I don't know.

24 I can see the argument that they -- I think  
it's a good argument to be made for the suppression.



6 1 Maybe as to all of the wiretap orders. But certainly  
2 as to the first -- the very first entry, at least,  
3 if that was illegal, and the law requires that the  
4 Court specifically say, you may trespass upon the  
5 premises based on -- I shouldn't say "trespass"  
6 because that implies a violation that you may enter  
7 the premises because there is reasonable cause to  
8 believe that conversations concerning criminal  
9 activity was going on. I would say that was  
10 -- was the first order made before Judge Judd.

11 MR. WILD: Yes.

12 MR. BARLOW: Yes sir.

13 THE COURT: That the conversations seized  
14 there were unlawfully seized. However, the argument  
15 is that if Judge Judd had the right to authorize the  
16 entry on the premises -- and there again I think the  
17 test would be probable cause and not all the  
18 allegations required under 2519. And there is  
19 another question that there is no authority for. But  
20 I feel there is at least some logical basis for  
21 saying, well, the Government was given the right to  
22 enter the premises. And from there on they didn't,  
23 have to get the right again. The original entry to  
24 place the bug was sufficient for any other order and  
25 it didn't have to be recited in the order.



7 1 I read the amendment to the statute 25184  
2 that follows E, and it seems to say that the landlord  
3 or the telephone company, or the -- whatever other  
4 agency would be able to give the aid to the  
5 Government in placing a bug must do it. And if they  
6 don't, then the Government can get an order  
7 directing them to do it.

8 So a landlord can say, now, you help this  
9 agent or the Government, open up the door and enter  
10 and place a bug.

11 Now, there it seems to me that Congress  
12 was saying that they understood that when a bugging  
13 was authorized, that of course it meant that the  
14 Government could go in and place the bug and no  
15 specific authorization had to be given. And in  
16 order to underscore that, the Congress said any  
17 landlord that is in a position to help the  
18 Government enter the premises lawfully must do so.  
19 And if he doesn't, then a specific order must be  
20 made directing that landlord to do it.

21 And I assume if they didn't, that landlord  
22 would be in contempt of Court.

23 It is not clear. I'm aware of the fact that  
24 the DC code amended the wiretap statute that required  
25 the judge to pass on it and provide for it in the



order. And, as I understand it, the New York Wiretap Law also now provides for it.

MR. ADLER: And has since its inception by the enactment of the criminal law in --

THE COURT: Well, whether that was an amendment to the procedure or just expository of the law as they understood it is another question. I don't know. In this field it's new. And we are going to do a lot of guessing in it. And all that I can say is that I hope I guess right. And I will try to use whatever legislative history is at hand to explain the omission. And Judge Gesell's case, even though not reported, is interesting. I thought at first when I read it it went against the Government. But I had underscored that very section before when I thought I would come to this argument.

MR. WALLACH: Section 2518. 2518.

THE COURT: Yes. I underscored it in here. All right. I had it marked for discussion. It's 2518. And paragraph --

MR. WALLACH: Subdivision E.

THE COURT: Well, it's added to Subdivision E.

MR. WALLACH: After Subdivision E.

THE COURT: After Subdivision E.

All right. That's it. But my specific ruling



at that time referred to Judge Judd's order.

MR. ADLER: I can only indicate it wasn't clear to me that we were limiting ourselves to Judge Judd's order. I think it's clear to the extent that Congress was -- by its silence was authorizing that each judge who signed an authorizing order -- and here each one of those orders, the order of April 12 by Judge Bartels, the order of May 3 by Judge Bartels, the order of May 24, 1973 by Judge Neaher, each requires scrutiny to see whether or not --

THE COURT: I know. I have the argument. All I can say is that I suspect that every bugging order in the country until recently was void if it required an entrance into an apartment or in any private place, because I am not aware of any that had this provision in it.

MR. ADLER: Your Honor, I can --

MR. BARLOW: That's true, your Honor.

MR. ADLER: I can't speak for the Federal Government but I can tell your Honor --

THE COURT: That doesn't make it right. But it certainly gives you some impression as to what others who interpret this understood it to mean.

MR. ADLER: I can tell you from my experience



10 1 as an assistant district attorney in Brooklyn, all  
2 of our orders contained those authorizations and the  
3 judges were always put on notice that these kind  
4 of --

5 THE COURT: That's only because the statute  
6 required it. .

7 MR. ADLER: Your Honor, just to make this  
8 record clear, then, would it be possible for  
9 Mr. Barlow to indicate specifically on what  
10 occasions we are talking about when the Government  
11 either, (a) went onto the premises to install the  
12 eavesdropping device, and (b) returned to the premises  
13 either to move the device, or to rejuvenate them  
14 because the batteries had worn down, and (c) on what  
15 occasions, if any, black bag entries were made to  
16 remove the device.

17 I don't think the record actually reflects what  
18 dates the illegal entries were made. I think that  
19 he should indicate for the record so it's clear --  
20 quite clear on what kind of intrusion --

21 THE COURT: Do you want to state for the record  
22 the very first entrance? Was that just through the  
23 open door or were bugging devices placed or was it  
24 at night where someone climbed through a window or  
25 transom or something else?



1 MR. BARLOW: Okay. I can't give you exact  
2 dates because I don't know them, your Honor. But  
3 assuming, just for the sake of argument, that Mr. Adler  
4 has standing to either question the entry -- and there  
5 is one Second Circuit case, U.S. v. Bovo, U.S. 460,  
6 Fed. 2d, which is cited on Page 5 of our memorandum.  
7 That talks about seize conversations not being property.  
8 And, as I remember, that was in the context of the  
9 standing argument. However --

10 THE COURT: The argument is that everyone whose  
11 conversation is seized has a right to challenge the  
12 order. Now, if the order must provide for an  
13 authorized entrance into the premises and it doesn't  
14 then on that theory he's been an aggrieved person.

15 MR. BARLOW: I can certainly agree with that.  
16 I was just using that as a preface.

17 It is my understanding that for the bug in the  
18 Highway Lounge the agents went in. Okay. The order  
19 was signed April 12th. The agents went in on the  
20 night of April 12th-April 13th, I think, using a  
21 skeleton or pass key and went into the Highway Lounge  
22 by that means sometime after midnight and before dawn,  
23 put in the two microphones: One in the bar proper and  
24 one in the back room. There was a second entry during  
25 the pendency of Highway 1 when the microphone at the



2 1 bar was moved into the back room. So that after --  
2 from that point on, both microphones were in the back  
3 room of the Highway Lounge.

4 The third entry was made the evening -- or the  
5 night, I should say, of May 2nd-May 3rd. That was the  
6 entry under Judge Judd's order.

7 And if I can confer with Agent Parsons for a  
8 second, I will find out if there was any other entry  
9 to recharge the batteries.

10 Mr. Parsons told me that there was probably at  
11 least one other time later on during Highway 2 or  
12 Highway 3 when entry was made again to recharge the  
13 batteries.

14 MR. ADLER: In what manner were there entries?  
15 Was this with one of these skeleton keys?

16 MR. BARLOW: Yes, in all cases. There was no  
17 breaking of doors or windows.

18 MR. ADLER: Was there a Court order which  
19 authorized the moving of the microphone from the bar  
20 area to the back room area? That was the second --

21 MR. BARLOW: No, there wasn't.

22 MR. BRILL: What was the date of that?

23 MR. BARLOW: As I said, I don't know the --

24 THE COURT: I thought we were going to start a  
25 hearing on sealing.



5 1 hearing tomorrow.

2 MR. BARLOW: All right.

3 MR. ASEN: I have discussed that with Mr. Hannan  
4 and I will join him in that hearing tomorrow. So I  
5 would suggest we deal only with Highway Lounge today.

6 MR. WILD: Your Honor, while Mr. Barlow is  
7 gathering some material, may I just indicate that I  
8 also was confused. It was my intention -- and I thought  
9 the Court took my application as an attack on the entry  
10 in each of the Highway Lounge interceptions -- and so  
11 that there is no doubt about that, that was my motion.

12 MR. O'BRIEN: For the record, I would like to  
13 join in all motions that may be applicable to my client.

14 MR. BARLOW: The Government calls Charlie Parsons.

15 At this time I would ask if there are any other  
16 agents who are going to testify, that they leave.

17 C H A R L I E P A R S O N S , called as a witness, being  
18 duly sworn by the Clerk of the Court, testified as  
19 follows:

20 DIRECT EXAMINATION

21 BY MR. BARLOW:

22 Q Mr. Parsons, you are a special agent of the  
23 FBI presently stationed at the FBI Academy at Quantico,  
24 Virginia, are you not?

25 A That's correct.



Parsons-direct

extremely large room?

A Yes, that's correct.

Q In fact, the room would be three or four times as large as this courtroom, would it not?

A Well, it's divided in half by a partition. I'd say one half of it is about the size of the courtroom.

Q Now, did there come a time -- okay. Let me withdraw that.

Referring you to May 2nd, 1973, did I telephone you that afternoon concerning the extension order, Highway 2?

A Yes, sir, I believe you did.

Q And do you remember what I told you?

A Well, this point we were waiting on the extension and you indicated that we would not receive it until the next day, that you just be informed by someone in Washington. And there was a very important conversation that we wished to intercept the next day and if we did not replace the batteries, it would be impossible.

Q And that that conversation would have been the conversation between Mr. Napoli, Sr. and Anthony Abbatemarco?

A That's correct.

Q Had you listened to the tape recording of their



Parsons-direct

5 1  
2 prior Thursday conversation when they set up this meeting  
3 for May 3rd?

4 A Yes, I did.

5 Q Did I phone you later on in the evening --  
6 excuse me. After I telephoned you and told you about the  
7 circumstances in Washington, did you have any discussions  
8 with your superiors in the FBI?

9 A Yes. I explained the situation to them and  
10 told them that we were going to miss this conversation the  
11 next day unless somehow the batteries could be rejuvenated  
12 and they indicated that if the Department of Justice was  
13 willing to go to a Federal District Judge and get a court  
14 order authorizing our entry, that we could go in and  
15 rejuvenate the batteries.

16 Q And eventually, on that evening, did I give  
17 you a telephone call and tell you that Judge Judd signed  
18 such an order?

19 A Yes. And that you had gotten permission from  
20 your superiors.

21 Q And that night, you and other agents went to  
22 the Highway Lounge and replaced the batteries, rejuvenated  
23 the batteries, what have you?

24 A Yes, that's correct.

25 Q The next morning, May 3rd, 1973, did you



Parsons-direct

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bring the box of tapes over to my office?

3

A Yes, I did.

4

Q And do you remember going up with me to

5

Judge Bartels' chambers that morning?

6

A Yes, I do.

7

Q By the way, if you know, did we have the

8

authorization letter and memo from the Department of Justice

9

at that time?

10

A It came in that day. I think it was -- this

11

was 9:00 or 10:00 a.m. in the morning. I think it came in

12

a little after that. I think we got the tape sealed and

13

then went back to him with the affidavit. That's the best

14

of my recollection.

15

Q But the tapes were sealed that morning?

16

A Yes, they were.

17

Q Now, the order that Judge Bartels signed that

18

day would have been the Highway 2 order, would it not?

19

A Yes, sir, that's correct.

20

Q And that would have been -- that was signed

21

at 1:25 p.m., May 3rd?

22

A Yes, it was.

23

Q And that was also for 15 days excluding

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Sundays?

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A Yes, excluding Sundays.



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was going to fly down to Washington with those papers?

A Yes, I do.

Q And I -- is it fair to say that you followed the exact same procedure for taking the tapes each night during that surveillance and the chain of custody at the FBI during Highway 2 as well as for Highway 1?

A That's correct.

Q In fact, was that procedure what you followed for the entire electronic surveillance, both at Apartment 309 and for all three orders of the Highway Lounge?

A There is some distinction because the physical circumstances were quite different and in the third order there was a short period when we didn't follow that exactly. We didn't have to duplicate tapes, for example.

MR. WILD: Could the answer be read back?

I didn't hear it.

THE COURT: Yes.

(Read)

Q By not having to duplicate tapes, are you talking about the Apartment 309 surveillance?

A No. I'm referring to a wiretap as opposed to a microphone where there were two copies made simultaneously so the procedure was different. There was no duplicating.

Q And that wiretap would have been the one on



Parsons-direct

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the telephone at Howard Beach?

A Yes, that's correct.

Q And in fact, that surveillance was conducted through these lines back to the FBI office, was it not?

A Yes, it was.

Q And the -- there were two tape recorders operating sumiltaneously at the FBI monitoring room there, were there not?

A Yes, that's correct.

Q How many tape recorders were in the surveillance truck during the Highway Lounge surveillance?

A Two.

Q There were two?

A Yes. One for each microphone.

Q Oh. Now, did you again follow the same procedure in bringing these tapes back to me for sealing by Judge -- by the relevant Judge, during Highway 2?

A Yes.

Q And did my instructions change at all?

A No. Still to bring them back. When we -- and we went to get the extension signed.

Q Do you remember who signed the Highway 3 order?

A Let's see. Bartels, I think for the first

Parsons - cross - Adler

95

you allegedly kept these tapes?

A No.

Q Where did you get the cabinet from?

A The cabinet was there when I arrived in New York.

Q When you arrived in New York, did you ever ask anybody in the office whether or not they had any keys to this cabine'?

A No, I did not.

Q Mr. Parsons, you testified you went down before Judge Bartels at the time the eavesdrop order was applied for on April 12th?

A Yes, I did.

Q You talk to him at all?

A Yes.

Q Any testimony taken?

A Not formal testimony.

He may have asked several questions, but we didn't have a Court reporter or anything of that nature, no, sir.

Q Anybody say to Judge Bartels it would be a good idea to have a Court reporter there to take down any questions you have have asked or any answer he may have given?

MR. SANDS: Objection.



Parsons - cross - Adler

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THE COURT: How many lawyers do we have for the Government?

MR. SANDS: Myself, your Honor, and Mr. Barlow.

THE COURT: I'll have one for the Government.

If there are any objections, it will have to come from Mr. Barlow.

MR. SANDS: Very well.

THE COURT: Is this on the question of surreptitious entry?

MR. ADLER: No.

THE COURT: Objection sustained. It certainly is. Go ahead. Next.

BY MR. ADLER:

Q Mr. Parsons, did Judge Bartels ever call you up on April 30th and ask you where the tapes were, because they were supposed to be sealed that day?

A He didn't call me up and I don't know if I can agree with the rest of your statement.

Q Did Judge Bartels call you at any time on April 30, 1973?

A He did not.

Q Did he call you the following day?

A He did not.

Q Did Judge Bartels ever call you and ask you



Parsons - cross - Adler

97

where the tapes were on any of the eavesdrop orders he authorized?

A He did not.

Q Did you ever call him up and tell him why you weren't bringing the sealed tapes to him on the day that a particular eavesdrop order was going to lapse?

A I did not.

Q To your knowledge, did Mr. Barlow ever call Judge Bartles and convey to him the reason why those tapes were not being sealed on the day the eavesdrop order was expiring?

MR. BARLOW: Your Honor, I'll stipulate for the purposes of the hearing that I didn't do that in connection with any of the orders.

MR. ADLER: Your Honor, if we are limited on the question of sealing, that I think may be about all.

Can I have just one more minute?

THE COURT: All right.

Anyone else want to ask any questions?

MR. WALLACH: Just a few, your Honor, with your Honor's permission. I won't repeat.

CROSS-EXAMINATION

BY MR. WALLACH:

Q Mr. Parsons, when did you first get the key to



the cabinet in the office?

A I can't remember an exact date.

Q Did you --

A March '71, April '71.

Q That's good enough.

Who gave them to you?

A My supervisor at the time, Edward Cavanaugh.

Q And do you have those keys with you today?

A I do not.

Q Can you describe the cabinet?

A It's a file cabinet as opposed to a safe type cabinet.

It has multiple drawers. I don't know, four, five, with a lock at the top.

Q Anything unique about that cabinet?

A Not particularly, no, sir.

Q I mean, you've seen other cabinets like it, haven't you?

A Yes, I have.

Q And you can buy them in any office supply store? Would that be a fair question?

A A fair answer? Yes, sir.

Q A fair answer.

A Yes.



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Q I'm not trying to argue.

3

And how many keys did you get to that cabinet?

4

A One.

5

Q One key only?

6

A Yes.

7

Q Well, did you say to your supervisor, what

8

happens if I lose this key?

9

A No.

10

Q Nobody else has it?

11

A No, I didn't ask him that.

12

Q You just testified that, to your knowledge,

13

I believe, or words to that effect, that only you had the key?

14

A As far as I know, that's correct.

15

Q You say as far as you know. You mean, you don't

16

know whether anyone else had a key?

17

A That's right.

18

Q That was a commonplace key, wasn't it?

19

A No. It didn't -- it didn't fit the other

20

cabinets.

21

22

There are certain cabinets that have a

23

standard type key that will fit multiple cabinets. It was

24

unique to that cabinet.

25

Q Just to that cabinet?



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2

A No, sir.

3

Q Did you ask any of the other agents whether

4

they had any keys to that cabinet?

5

A No, sir.

6

Q How many agents occupied that office?

7

A The New York office?

8

Q No. The one -- specific area where the

9

cabinet was?

10

A I'd say roughly a hundred. A very large room

11

such as this.

12

Q You were supervising this investigation,

13

weren't you?

14

A Yes, sir.

15

Q How many agents were under you?

16

A It varied.

17

Q Approximately.

18

A Six on a -- more full-time basis and others on

19

occasion.

20

Q You were in the same room where this

21

cabinet was with them, weren't you?

22

A That's correct.

MM fls<sub>23</sub>

(Continued on next page.)

24

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Parsons - cross - Wallach

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A The Judge.

3

Q The tapes were put in a master carton and

4

presented to a Judge?

5

A And sealed with masking tapes.

6

Q The contents of the cartons were the tapes?

7

A Yes.

8

Q So we have boxes in the cartons?

9

A Yes.

10

Q The only thing you are testifying about is

11

there was a master carton that was sealed?

12

A That's right, the entire box was sealed.

13

Q When you received the tapes, did you make a

14

writing as to the date you received them and what period of

15

time they covered?

16

A Each individual tape?

17

Q Yes.

18

A I would sometimes make a notation on the chain

19

of custody form and sometimes put it in the box, and

20

later on I'd move them and put them in a standard file.

21

Q Sometimes but not all the time?

22

A There was one occasion when I was gone for

23

three or four days and they were given, the tapes were

24

given to another agent. He put them, I gave him the key

25

for that period of time and he put them in the cabinet.



Parsons - cross - Wallach

105

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Q What was his name?

3

A James Mitchell.

4

Q Were you apprehensive that he may lose the key

5

and you couldn't get the tapes out of the cabinet?

6

A NO. I have full confidence in him.

7

Q As a matter of fact, you weren't worried because

8

you could get another key?

9

A No, I didn't know that. I wasn't concerned

10

about that key.

11

Q You weren't concerned about access to the cabinet,

12

were you?

13

A I was concerned about that it was in a rather

14

secure place in the Government office.

15

Q And a Government office couldn't be broken

16

into?

17

A I didn't say can't, but the odds are small.

18

Q But keys are mislaid, aren't they?

19

A Yes.

20

Q Did you ever mislay keys?

21

A I couldn't say.

22

Q Did you tell this to the U. S. attorney that

23

we are putting them in a cabinet and no one else has the key

24

and they are only accessible to me?

25

A No. I may have but I don't recall that.



Parsons

jb/ss 1

6aml 2

THE COURT: I mean Highway 3 order expired.

3

THE WITNESS: June 15th.

4

THE COURT: When?

5

THE WITNESS: June 16th was the expiration date

6

on Highway 3.

7

THE COURT: When did you take Highway 2?

8

THE WITNESS: Highway 2, the Court order was up

9

on May 21st.

10

THE COURT: May 21st?

11

THE WITNESS: Yes.

12

THE COURT: That's sealed May 24th?

13

THE WITNESS: Yes.

14

THE COURT: So in both cases there was a three-

15

day time differential. Why did you wait those three

16

days?

17

THE WITNESS: Well, on the -- on April 30th, we

18

finished that 5:20 in the evening. And the next day I

19

made a duplicate of the tape, which was necessary. And

20

I told Mr. Barlow -- and we were waiting for the Court

21

order to come back from Washington for Highway 2. So

22

he said, bring them over when we get the Court order

23

signed. It turned out to be on Thursday, about 1:00

24

o'clock. So we are really talking about Tuesday and

25

Wednesday. And Monday night would have been impossible



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Parsons

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to find a judge probably.

3

THE COURT: All right, Mr. Wild.

4

MR. WILD: Thank you.

5

CROSS-EXAMINATION

6

BY MR. WILD:

7

Q The only reason that you waited to bring the tapes for sealing was because Mr. Barlow said it could wait until the next order was going to be applied for?

8

9

10

A It was necessary to duplicate that very last day, two tapes on the 30th. Those had to be duplicated. That was another reason.

11

12

13

Q Apart from the duplication process.

14

A That's correct.

15

Q How long did it take to duplicate the tapes?

16

A Ten minutes. Using the fast speed machine.

17

Q That's the one you used to duplicate the tapes

18

you used?

19

A Yes.

20

Q So is that roughly about twenty minutes worth

21

of time to spend on the duplicating process?

22

A That's correct.

23

Q So except for that brief period of time, then,

24

the only reason that you didn't bring the tapes over for

25

sealing to the judge who issued the order was Mr. Barlow's



A F T E R N O O N      S E S S I O N      121A

MR. ASEN: Your Honor, should I proceed?

THE COURT: Yes, please do. It's just past  
2:00 o'clock.

MR. ASEN: Very well, Judge.

P A R S O N S      called as a witness,  
having been previously sworn by the Clerk of the  
Court, resumed the stand and testified further as  
follows:

CROSS-EXAMINATION

BY MR. ASEN:

Q      Now, I believe, Mr. Parsons, on your direct  
examination you indicated that the tapes from the Highway  
Lounge were removed from your locker and duplicated; is  
that correct?

A      Yes, generally.

Q      Those that were not wiretaps were duplicated?

A      Yes.

Q      Was there a procedure that you followed for ap-  
proximately the 60 tapes or 30 tapes of Highway One and Two,  
whereby you were able to remove them from the locker and  
have them duplicated?

Was there any set patten or procedure that  
you followed?

A      No. Just take them upstairs where the duplicating



Parsons - cross - Asen

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A No.

Q Was there any procedure for removing the tapes themselves and taking them to, for example, Judge Bartels, for sealing, the actual sealing?

A No procedure. I just got a box such as the one you see and put them all in there and brought them over to Mr. Barlow and we went up to the Judge and generally Mr. Barlow brought some masking tape which was used for the sealing of the large boxes.

Q Now, do you have any specific recollection as to who was present generally on the occasion that the boxes themselves were sealed?

A Well, Mr. Barlow, I think on one occasion, Mr. DelGrosso in the Strike Force office went with me and each time the Judge that was doing the sealing and I can't remember any other persons being in the room besides the Judge, we were in his chambers.

Q And so therefore, it would have been you and Mr. Barlow and on one or two occasions, Mr. Del Grosso --

A That's correct.

Q -- accompany you and Mr. Barlow?

A Yes.

Q To the best of your knowledge, sir, then is it your testimony that no one else would have been present?



1 tomorrow.

2 MR. BARLOW: I would think even if I could cut  
3 it down with Mr. Asen, I have three other attorneys  
4 who aren't here today and the cutting down today  
5 will not accomplish anything at 10:00 o'clock to-  
6 morrow morning.

7 THE COURT: If Mr. Parsons had testified to the  
8 first tap, then I would assume the same procedure  
9 was employed for the others.

10 But these are the later taps. You're not  
11 going to concede it was the same. You want a  
12 hearing on that.

13 MR. ASEN: Precisely. The only issue that  
14 I was raising was in trying to be helpful, your Honor,  
15 with the problem, it occurred to me that perhaps  
16 Mr. Barlow could assist myself and Mr. Borstein  
17 and Mr. Wallach today in understanding where the  
18 differences lie.

19 So that we can focus --

20 MR. BARLOW: Your Honor, I can help them out  
21 very easily.

22 THE COURT: Unofficially --

23 MR. BARLOW: I can make them a proffer, your  
24 Honor.

25 THE COURT: Go ahead.



1           MR. BARLOW: The practices were virtually  
2 identical with these exceptions.

3           First of all, the monitoring agents for  
4 Apartment 309, the two bugs and the wiretap for 309,  
5 three, were the monitoring agents within the FBI  
6 because the FBI had at least lines going back to the  
7 office, so they weren't out near the monitored premises.

8           Secondly, since they had four or five months  
9 of surveillances and knew when Mr. Mascitti and  
10 Mr. DiMatteo were going into Apartment 309, they  
11 began monitoring, etc., when physical surveillance  
12 showed the gentlemen entering or after considerable  
13 time they knew the pattern and they just listened  
14 from about a quarter of 3:00 or 3:00 o'clock when  
15 Mr. Mascitti and Mr. DiMatteo went in the premises.

16           THE COURT: Did they see the defendants con-  
17 cerned go in the premises?

18           MR. BARLOW: Yes, sir.

19           THE COURT: In the apartment?

20           MR. BARLOW: Not into the apartment itself, but  
21 into the building.

22           THE COURT: The building?

23           MR. BARLOW: Yes. With those two exceptions,  
24 the practices were virtually identical to the prac-  
25 tices that the agents testified about at the Saccone



Parsons-cross/Hannah

MR. BARLOW: It's already stipulated, sir.

MR. HANNAH: All right.

Mr. Barlow, will you stipulate that the orders submitted to Judge Judd --

THE COURT: Incidentally, I regard all the orders, all the applications, all the affidavits submitted in support of these orders to be part of the hearing.

MR. HANNAH: Fine.

THE COURT: No question about that.

MR. HANNAH: All right. That the name of Pasquale Joseph Rosetti was included in the order?

MR. BARLOW: We don't have to submit, sir. Judge Mishler just said it's part of the record.

MR. HANNAH: All right.

BY MR. HANNAH:

Q Did you appear before Judge Judd?

A Yes, sir, I did.

Q Yes. Was there any testimony taken at that time?

A Not to my recollection. No sworn testimony. I swore to this affidavit.

Q Yes. Now, was there anything mentioned about the fact that Rosetti's name, Pasquale Joseph Rosetti's name was in the order but not in the authorization.

A No, sir. I don't remember any such conversation.



Parsons-redirect/Barlow

which is a part of Government's Exhibit 1 --

MR. WALLACH: The date, date.

MR. BARLOW: Excuse me, I will withdraw that.

Q All right.

Now, I am showing you the application that Mr. DiGrasso made and that again is a part of Government's Exhibit 1, on the last page of that order or of that application, that has the provision in there requesting the services of the New York Telephone Company, does it not?

A Yes, sir.

I advise you and Mr. Del Grasso that we would need the Telephone Company for this, yes.

Q What services of the Telephone Company were needed for the microphone in Apartment 309?

A Well, they ran two leased lines back to our plant and we conducted monitoring from there.

MR. ASEN: May we know the date and time?

THE COURT: The date and what, the date and what?

THE WITNESS: When they ran those lines which were supposed to go over there.

MR. BARLOW: I will get to that in the next question.

Q In order to get the New York Telephone Company



Barlow/Direct/Sands

Q With respect to the issue of stealing, what instructions, if any, did you give Mr. Parsons or any other agents involved in this investigation concerning when the tapes were to be sealed?

A My instructions to Mr. Parsons on sealing stayed essentially the same during the entire investigation. That is, in virtually every instance, except for the last order, we expected to get extension orders.

MR. WALLACH: I am going to object to all of this.

This is all subjective.

THE COURT: Well --

THE WITNESS: Ok. I can straighten out that answer, Your Honor, give a factual answer.

MR. SANDS: Good faith --

THE COURT: All right, strike it out.

When we talk about explanations, it may very well involve the expectations of the Government lawyer.

THE WITNESS: Your Honor, I testify --

THE COURT: Good faith is an element here, too.

MR. WALLACH: For the record, Your Honor --

THE COURT: I will allow it.

MR. WALLACH: For the record, I would like to state that I see no where in the statute where Congress made good faith and element of what was called legal elec-



1  
2 prior experience had been that extension orders  
3 would be reviewed and the authorization either given  
4 or not within the space of two or three or the most  
5 four days. For original orders it was taking longer  
6 at that time, anywhere from a week to a week and a  
7 half.

8 However, even though the papers for 309, two,  
9 got down to Washington, I believe the day after New  
10 Year's in '73, the authorization didn't get back  
11 until January 12th.

12 THE COURT: Were you aware that the statute  
13 required sealing immediately?

14 THE WITNESS: I know that I had read the  
15 statute and that particular part and I certainly had  
16 knowledge that the statute said, immediately.

17 THE COURT: No. Were you conscious of that  
18 when you decided to wait until the renewal of the  
19 succeeding order was approved before asking for the  
20 sealing or did you just overlook it?

21 THE WITNESS: I'm sure that it had slipped  
22 my mind as to the word "immediately", within that  
23 space of time, because I had -- I'm sure that if I  
24 had remembered the word "immediately", that even  
25 though I was getting ready for trial, I would have



1  
2 February 20, 1973".

3 I had given my secretary a copy of the order  
4 that Judge Rosling had signed back in March to use as a  
5 form to make up the sealing order for Judge Neaher and  
6 either I made a mistake in not changing the date in the  
7 order or she made a mistake in typing it. I believe the  
8 former is more probable than the latter, but that order  
9 sealing the tapes reflected the sealing by Judge Neaher  
10 of the tapes for Highway 2 and not Judge Rosling's tapes.  
11 Judge Rosling's tapes were sealed on March 16, '73 and  
12 they've never been unsealed since then.

13 Q So in substance then you are testifying that  
14 it is erroneous to refer to two sealing orders in connection  
15 with Judge Rosling's order?

16 A Yes, sir. It's probably -- more probable  
17 my mistake. Possibly my secretary's mistake at the time.

18 Q In connection with the preparation of the  
19 applications and affidavits that were presented to the  
20 issuing Judges, did you have discussions with the agents  
21 involved with the investigation of this case concerning  
22 the individuals to be named as subjects in the proposed  
23 order presented to the issuing Judges?

24 A Yes, sir. Primarily, in fact virtually all  
25 the time my discussions concerning the naming of persons



1  
2 order.

3 For the Highway 1 order, that was also sent  
4 down to Washington by mail and either by a delay in the  
5 postal service or in the mail room in the Department of  
6 Justice, that didn't get there until four, five days  
7 after it was sent down.

8 So, for the Highway 2 order, the one Judge  
9 Bartels signed May 3rd, I again flew down with that order  
10 and started the actual papers through the review process  
11 on May 1st.

12 And then I believe for Judge Neaher's order  
13 for May 24th, I flew down with those, also.

14 Q For what reason are the papers transmitted  
15 to Washington?

16 A Well, as a -- as is reflected in -- I believe  
17 it's a Fifth Circuit case, that is cited in our memorandum,  
18 there is a rather lengthy multiple step review process.

19 Q Which eventually winds up with what indi-  
20 vidual?

21 A Well, the last -- the last person chrono-  
22 logically it winds up with is the Assistant Attorney General  
23 in charge of the criminal division. In that case, it was  
24 Mr. Peterson, who signs an authorizing letter which would  
25 have been to Mr. Dillon at that time. The highest step



Barlow-cross/Adler

of cause to the issuing judge.

Q What about amendments on the wiretap or eavesdrop orders to include either new persons or new crimes? What does it say about that?

A Absolutely nothing. There is no amendment provision in Title 3 unlike the amendment provision in Article 700 of the CPL.

Q But the inventory notice provision speaks of as soon as practical?

A No, sir. It says within a reasonable time but not more than 90 days.

Q But the inventory notice talks in terms of immediately, doesn't it?

A No, sir. It says what I just said.

Q Excuse me. The sealing requirement speaks in terms of immediately, doesn't it?

A Yes, sir.

Q Did the Strike Force have any manual or instructions on the sealing requirement?

A Only what I just said.

Q Separate and apart from the Justice Department.

A No, sir.

THE COURT: Did you ever have a system of calendaring the various steps on the intercepted orders?



Barlow-cross/Adler

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A Our office never did, your Honor. And the Criminal Division did not until I believe sometime last year. Now there is a calendar system down probably in the Special Operations Unit, but someplace within the Organized Crime Section, and a secretary in the section will call the applicant, whether he is a Special Attorney or an Assistant U.S. Attorney, one or two days before the termination of the order to remind someone --

THE COURT: Is this done from Washington?

THE WITNESS: Yes, sir.

THE COURT: Thank God somebody is doing it.

THE WITNESS: Yes.

Q At the time you received authorization to commence the electronic surveillance on what we have denominated as Highway 1, did you calendar ahead for the termination date in your diary, or did anyone else in the Strike Force.

A I did in my diary, yes, sir.

Q Did you similarly indicate anywhere in your diary when you had to seal those tapes?

A I don't remember making separate entry because the same entry would have sufficed for both.

Q Now, you have testified, Mr. Barlow, that in your opinion at least the propriety of seizing conversations under authorization of Highway 1 lasted until April 30th. is that



Barlow-cross/Adler

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Q Did he ever ask you to seal the tapes of Highway 1, 2 and 3?

A Not at that time.

Q Did Agent Parsons ever call you up or ask you on the termination date or within the next following day or two whether or not the tapes from the prior order had been sealed?

A No, sir. He knew they had.

Q Mr. Barlow, you were in court when Agent Parsons testified.

Do you recall him testifying that there were occasions when Mr. Parsons did not receive the tapes of the seized conversations on each particular day? That sometimes he wouldn't receive them until the next day?

A Yes, sir.

Q On those occasions who would have had custody of those tapes until they were turned over to Agent Parsons?

A I do not have any direct knowledge. But Mr. Parsons told me that in those few occasions the monitoring agent would keep it in his custody or lock them up overnight -- No, I will strike that last portion.

He told me that the monitoring agent kept custody of it until he gave it to Agent Parsons.

Q Mr. Barlow, have you ever made a duplicate copy



Barlow -cross/Adler

3PM  
HS/nc

CROSS-EXAMINATION

BY MR. ADLER: (Cont'd.)

THE COURT: I may very well, in anticipation of any appeal on that particular point, ask the Government to make a record of that and let another panel look at it.

Q When you brought the application of Highway I to Judge Bartels did you tell him how you were going to install the device?

A I didn't tell him how. I told him we were going to install it.

Q Did he ask you how you were going to do it?

A Yes.

Q What did you tell him?

A I told him that the agents were going to go in that night and install the microphone someplace in the back of the Highway Lounge.

Q Did he ask you if you had the permission of the owner of the premises to do that?

A Yes, sir.

To the best of my memory he did ask us about that and Agent Parsons then told him about the number of lookouts that were in that area, families living near the Highway Lounge that the agents had seen who were acting



Barlow-cross/Adler

2 1 as lookouts, both during the day and during the evening  
2 and sometimes all the way through the night.  
3

4 In fact, I believe Agent -- Agent Parsons  
5 told him about someone in an apartment either over the top  
6 of the garage of Mr. Vigorito's business or two or three  
7 houses down the street, that they had seen acting as look-  
8 outs fairly late in the evening or night.

9 Q Is this all on record before Judge Bartels?

10 A This is all discussion with the Judge while  
11 reviewing the affidavit and the application and the order.

12 He would be asking questions virtually on  
13 every page of that first affidavit. He was highly curious  
14 as to the investigation and the facts in the affidavit.

15 Q How long did this whole proceeding take,  
16 approximately?

17 A As I recall we got to his chambers sometime  
18 between four-thirty/ quarter of five and he signed the  
19 order at five-thirty so it was, you know, I remember we  
20 waited in the outer room of the chambers for ten or fifteen  
21 minutes.

22 It was between a half hour and 45 minutes  
23 that we spent in his chambers going over the papers.

24 Q Did you suggest to Judge Bartels that it would  
25 be a good idea to have a Court Reporter there?



Barlow-cross/Adler

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A No, sir. I didn't have anything else to add in the way of sworn testimony.

Q Did there come a time during the course of Highway I when the microphones were moved about in the premises?

A Yes, sir.

Q Did you go back to Judge Bartels then and tell him you were going to do that?

A No, sir, I did not. I'd have to look at the progress reports to see whether they reflect that or not.

Q Did you ever tell him that?

A I never told him personally or over the phone, no, sir.

Q Other than at the time you obtained the authorization from Highway I, did you ever again have a discussion with Judge Bartels while he was the authorizing Judge concerning your entries -- when I say yours, I mean the Government's -- into Highway I either to install, move around or rejuvenate an eavesdropping device?

A No, sir, I never had any discussion with him on that.

Q Agent Parsons or any other agent have any discussion with Judge Bartels along those lines?

A I can say definitely not. Agent Parsons



Barlow-cross/Adler .

only saw Judge Bartels and conversed with him when he was with me.

Q So the one conversation you had with Judge Bartels is when he approved the initial entry into Highway I; is that correct?

A Yes.

I may have had conversation with him when I delivered the progress reports to him, but I don't remember what they were. I am not sure whether there was conversation. I just can't testify as to that.

Q Was there a Court Reporter present at the time you submitted progress reports to Judge Bartels?

A No, sir.

Q Mr. Barlow, you testified that there were times when -- on the termination date of an order -- you were preparing a trial or actually on trial; is that right?

A Yes.

Q Was there a policy within the Strike Force to have a backup person, either an attorney or some other clerical personnel to take care of ministerial tasks while an assistant was actually on trial, preparing for trial?

A No, sir, there was not.

Q Now, you testified, Mr. Barlow, on how many



Barlow-cross/Adler

occasion -- strike that.

On how many occasions did you apply to Washington, D.C. to obtain authorization for the electronic surveillance on Highways I, II and III?

A I flew down I know on May 1st. I am pretty sure that I flew down for the May 24 order, also.

I am not as definite on that. I could go back and look at my travel vouchers to be absolutely sure.

Q I don't think that is necessary.

A Okay.

MR. ADLER: Just for my information, are the progress reports' deemed marked in evidence at this time?

THE WITNESS: They have been.

MR. ADLER: I have no questions on that issue.

Q The last issue I have at this time is the question of the naming of Mr. Vigorito in the eavesdropping order.

To your knowledge is Mr. Vigorito -- was Mr. Samata Vigorito the subject of photographic surveillance during the year 1973?

A Yes, sir, I believe you looked at the photographs yesterday.



Barlow -cross/Wild

to change all of the papers.

Q You mean to clear through the Department of Justice?

A Yes, because it wouldn't go through the reviewing process until the new names had been typed in.

Q Was that one of the reasons that you didn't include Mr. Vigorito as a subject in Highway II?

A If it was another reason, it was a far secondary reason. I didn't think Mr. Vigorito was going to come back into that room on the basis of his coming back two times in fifteen days. In fact, the first conversation, the one word, the one number that we overheard, I don't know whether that carried all the way from where he was usually standing by the front window or whether he was in the back room.

THE COURT: I would appreciate your answering only the questions.

THE WITNESS: Yes, sir.

Q In the Department of Justice was there any policy concerning the length of time that an application should be made in terms of the period of listening, the number of days -- during the time these applications were being made?

A Yes, sir, usually fifteen days, but in some



Barlow-cross/Wild

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instances more.

Q Was there any discussion in the Department of Justice that you would have more than 15 days by virtue of the exclusion of Sundays?

A No.

The orders were for fifteen days.

(continued next page.)

GR fowls



10 1 an order for an assigned lawyer to bring in an  
2 expert in the tapes as to his client's voice.

3 It's bad enough now we never reach trial  
4 with pretrial motions. Let's face it, if counsel  
5 wants experts to examine the tapes, we will be here  
6 to Christmas.

7 MR. BARLOW: I can say one thing --

8 THE COURT: I am with you, Mr. Wallach.  
9 Can you think of another way? I have been complaining  
10 about that all along. The trial is simple. I will  
11 just sit here and watch the lawyers work.

12 MR. BARLOW: There won't be any more  
13 motions to the electronic surveillance once we  
14 start picking the jury.

15 MR. WALLACH: I think that is what Judge  
16 Kaufman had in mind.

17 MR. WILD: May I make one last point: I  
18 know you want to leave the bench.

19 THE COURT: I don't know where you get that  
20 idea.

21 MR. WILL: I just want to raise one point  
22 which has occurred as a result of the conspiracy  
23 issues that were raised. If your Honor should find  
24 -- which I believe is a proper finding -- that the  
25 Government did not include Mr. Vigorito or anyone else



11 1 in the Highway applications for interception, it  
2 did that in order to gain a tactical advantage.

3 It wished to intercept a conversation which,  
4 if believed, occurred on May 3rd. I suggest that  
5 your Honor can and should find if that's the case,  
6 if you find that Mr. Vigorito should have been  
7 included and was not, the reason for it was for the  
8 Government to gain a tactical advantage and wilfully--

9 THE COURT: What advantage could the Govern-  
10 ment gain.

11 MR. WILD: The advantage would be that they  
12 would gain time because Mr. Barlow testified it takes  
13 longer for a renewal to go through the Department  
14 of Justice's clearing process when they add a new  
15 subject --

16 THE COURT: I thought a tactical advantage  
17 was one that somehow disadvantages the defendants.

18 MR. WILD: It does.

19 Mr. Barlow went down on May 1st and he wanted  
20 to get a conversation--

21 THE COURT: The defendants are entitled to  
22 delay, is that what you are saving?

23 MR. WILD: Had the statute been complied with  
24 there would not have been an order authorizing  
25 interception on May 3rd --



12 1 THE COURT: I will think of the argument.

2 MR. BARLOW: There is an easy answer.

3 We are not introducing anything.

4 MR. WALLACH: Where the Government doesn't  
5 add the name to a warrant then the statute states  
6 that the person not be given notice. It's up to  
7 the Judge to decide.

8 THE COURT: So Mr. Vigorito could complain  
9 about that.

10 MR. WALLACH: I know I am not too popular,  
11 today.

12 MR. BORSTEIN: On the conspiracy issue.  
13 Before the Court writes its opinion, may I respect-  
14 fully cite U.S. v. Ralph Principe, Paul Labriola  
15 and Dawn Slomka --

16 THE COURT: Okay, gentlemen. 9:30.

17 MR. WILD: If there was violation of the  
18 statute and if it was intentional, I think  
19 suppression is due Mr. Napoli.

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

I Order A237

-----X  
IN THE MATTER OF THE APPLICATION FOR  
THE UNITED STATES FOR AN ORDER AUTHORIZING  
THE INTERCEPTION OF ORAL COMMUNICATIONS  
-----X

ORDER

AUTHORIZING INTERCEPTION OF ORAL COMMUNICATIONS

TO: Special Agents of the Federal Bureau of Investigation  
United States Department of Justice

Application under oath having been made before me by Robert DeIrosso, Special Attorney with the Organized Crime and Racketeering Section of the United States Department of Justice, and an "investigative or law enforcement officer" as defined in Section 2510(7) of Title 18, United States Code, for an Order authorizing the interception of oral communications pursuant to Section 2518 of Title 18, United States Code, and full consideration having been given to the matter set forth therein, the Court finds:

a) there is probable cause to believe that Pasquale Joseph Rossetti; Joseph Mustacchio; Luigi Scafidi, also known as Gene; males known only as Barry Russo and John Doe; and others as yet unknown have committed and are committing offenses involving the conducting, financing, managing, supervising, directing, or owning in whole or part, a gambling business which (1) violates Article 225 of the New York State Revised Penal Laws, (2) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business, and (3) remains in substantially continuous operation for a period in excess of thirty (30) days or has a gross revenue of \$2,000 in any single day, in violation of Section 1955 of Title 18, United States Code, and the conspiring to commit said federal offenses in violation of Section 371, Title 18, United States Code.

b) there is probable cause to believe that particular oral communications of Pasquale Joseph Rossetti, the male known as Barry Russo, and others concerning these offenses will be obtained through the interception, authorization for which is herein applied for. In particular, these oral communications will concern the conduct, financing, management, supervision, direction and ownership of a wagering and betting business, the duration and continuity of the operation of this business, the number, degree of participation and identity of persons active thereof, the location from which the participants operate, the origin and destination of bets, and the amount of revenue involved in such betting business.



c) normal investigative procedures reasonably appear to be unlikely to succeed, if tried further.

d) there is probable cause to believe that the premises located at Apartment 309, 8-15 27th Avenue, Queens, New York have been and are being used by Pasquale Joseph Rossetti; Joseph Mustacchio; Luigi Scafidi, also known as Gene; males known only as Barry Russo and John Doe; and others as yet unknown in connection with the commission of the above-described offenses.

WHEREFORE, it is hereby ordered that:

Special Agents of the Federal Bureau of Investigation, United States Department of Justice, are authorized, pursuant to application by the Attorney General of the United States, the Honorable Richard G. Kleindienst under powers conferred on the Attorney General by Section 2516 of Title 18, United States Code, to intercept oral communications of Pasquale Joseph Rossetti; Joseph Mustacchio; Luigi Scafidi, also known as Gene; males known only as Barry Russo and John Doe; and others as yet unknown concerning the above-described offenses at the premises located at Apartment 309, 8-15 27th Avenue, Queens, New York.

Such interception shall continue until communications have been intercepted which reveal the manner in which Pasquale Joseph Rossetti; Joseph Mustacchio; Luigi Scafidi, also known as Gene; males known only as Barry Russo and John Doe; and others as yet unknown participate in this illegal gambling business and which reveal the identities of their confederates, their places of operation and the nature of the conspiracy involved therein, or for a period of fifteen (15) days from the date of this Order, whichever is earlier.

PROVIDING THAT, this authorization to intercept oral communications shall be executed as soon as practicable after signing of this Order and shall be conducted in such a way as to minimize the interception of conversations not otherwise subject to interception under Chapter 119 of Title 18, United States Code, and must terminate upon attainment of the authorized objective, or in any event, at the end of fifteen (15) days from the date of this Order.

PROVIDING ALSO, that electronic surveillance of the oral communications of the above-named subjects shall occur at the two above-described premises only where it has been determined that at least one of the above-named subjects is at the above-described premises.



PROVIDING ALSO, that Fred F. Barlow shall provide the Court with a report on the fifth and tenth days following the date of this Order showing what progress has been made toward achievement of the authorized objective and the need for continued interception.

Am J. Smith  
UNITED STATES DISTRICT JUDGE

December 8, 1972 - 10 a.m.  
DATED



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

IN THE MATTER OF THE APPLICATION  
OF THE UNITED STATES FOR AN ORDER  
AUTHORIZING THE INTERCEPTION OF  
ORAL COMMUNICATIONS

AFFIDAVIT

STATE OF NEW YORK

COUNTY OF KINGS

EASTERN DISTRICT OF NEW YORK

ss:

CHARLES J. PARSONS, Special Agent, Federal Bureau of  
Investigation, New York, being duly sworn states:

I am an "investigative law enforcement officer..."  
of the United States within the meaning of Section 2510 (7) of  
Title 18, United States Code--that is, an officer of the United  
States who is empowered by law to conduct investigations of  
and to make arrests for offenses enumerated in Section 2516 of  
Title 18, United States Code.

I make this affidavit in support of an application which  
seeks authorization to intercept oral communications concerning  
offenses involving violations of Section 1955 of Title 18, United  
States Code, and a conspiracy to violate said statute, which have  
been and are being committed by JOSEPH MUSTACCHIO, LUIGI SCAFIDI  
also known as Gene, an individual believed to be PASQUALE JOSEPH  
ROSSETTI, an individual known as BARRY RUSSO; an individual referred  
to herein as JOHN DOE D and others as yet unknown.

I have supervised the conduct of the investigation of this  
offense and, as a result of my personal participation in that  
investigation and of reports made to me by agents under my direction,  
I am familiar with all the circumstances of the offenses. On the  
basis of that familiarity, I allege the facts contained in the  
numbered paragraphs below to show that:



a. There is probable cause for belief that JOSEPH MUSTACCHIO, LUIGI SCAFIDI, also known as Gene, an individual believed to be PASQUALE JOSEPH ROSSETTI, an individual known as BARRY RUSSO, an individual referred to herein as JOE DOE D and others as yet unknown have committed, and are committing, will continue to commit and will continue to conspire to commit offenses involving the conducting, financing, managing, supervising, directing or owning of all or part of an illegal gambling business in violation of Article 225, Sections 225.0 through 225.40, of the New York State Revised Penal Law, and also in violation of Sections 1955 and 371 of Title 18, United States Code.

b. There is probable cause for belief that communications concerning those offenses will be obtained through the interception of oral communications at the premises located at Apartment 309, 8-15 - 27th Avenue, Astoria, Queens, New York.

c. Normal investigative procedures have been tried and reasonably appear unlikely to succeed if tried further.

No previous applications are known to have been made to any judge for authorization to intercept or for approval of interception of wire or oral communications involving any of the persons, facilities or places specified herein.

Facts Showing Probable Cause

1. Hereafter, automobiles may be referred to by license plate numbers only, and unless specified otherwise, the plates continued to be observed on the same automobiles, and the licenses were all from New York.



A review of New York State registration indices on or about the same day the plates were first observed in surveillances, as shown herein, reflect the following:

- a. License number KJ 5704 is listed to ALFRED RULLO, SR., 6219 64th Street, Middle Village, Queens, New York for a brown 1971 Buick.
- b. License number 5309 ZR is listed to DIANE HALL, 51-30 65th Street, Woodside, Queens, New York for a green 1963 Ford.
- c. License number 7371 XW is listed to DIANE M. HALL, 51-30 65th Street, Woodside, Queens, New York for a 1966 red Chevrolet convertible.
- d. License number QH 5287 is listed to PASQUALE ROSSETTI, 501 Metropolitan Avenue, Brooklyn, New York for a 1972 red Chevrolet.
- e. License number 162864 is a rental car listed to Ford Marketing Corporation, 1095 Atlantic Avenue, Brooklyn, New York for a 1973 yellow Ford.
- f. License number 770468 is a rental truck listed to the U-Haul Company, 1110 Lincoln Avenue, Holbrook, New York for a 1967 orange and white Ford Van.
- g. License number F61433 is a rental truck listed to the Hertz Corporation, 501 10th Avenue, New York, New York for a 1970 Ford Panel Truck.
- h. License number UE8491 is listed to ELIZABETH J. COHEN, 155-43 Huron Street, Howard Beach, Queens, New York for a 1969 green Plymouth.

Also, unless otherwise specified, all addresses are in New York State.



2. On May 1, 1972, Special Agents of the Federal Bureau of Investigation, pursuant to a search warrant, authorized by United States Magistrate VINCENT A. CATOGGIO, Eastern District of New York, searched the premises known as 967 East 2nd Street, Brooklyn, New York. My affidavit in support of the said warrant is incorporated herein by this reference, and a copy of it is attached hereto as Exhibit A. During this search, a quantity of adding machine tapes, pads, and pieces of paper were seized and subsequently submitted to the Federal Bureau of Investigation Laboratory for examination. By a communication dated May 22, 1972, from the Federal Bureau of Investigation Laboratory Gambling Section, affiant was advised that the examination reflected that with reference to the evidence submitted, "The foregoing described material is the type located and associated with a professional numbers writing operation related to the bank or office". The report further stated that "Weekly, this operation would handle an estimated \$203,543.04 in wagers with an estimated annual wagering handle of \$10,584,238.08."

3. Located within the premises of this policy "office" at 967 East Second Street were JOSEPH MUSTACCHIO, ROBERT JOSEPH VOULO and MARTIN GRIFFIN, JR. After being advised of certain of his constitutional rights, MUSTACCHIO advised an Agent working under affiant's direction that he had been working in this office for approximately one and one-half years, at various locations including his residence, various hotels, and homes of friends. He further stated that he usually received a phone call at his home from a male he identified as FRANK (Last Name Unknown) around 8:00 pm and was informed that the "ribbons" from the "bank" were ready and where to pick them up. He then would meet FRANK at various locations including Myrtle at 88th Street and Metropolitan Avenue at Myrtle Avenue in Queens, New York, where he was given the "bank ribbons".



MUSTACCHIO advised that he was paid one hundred and fifty dollars per week for preparing a daily accounting record of wagering totals from the "bank ribbons".

4. After being advised of certain of his constitutional rights, MARTIN GRIFFIN, JR. stated to an Agent working under affiant's direction that he had earned his living through policy-type gambling since he was fourteen years old. He stated that the operation at 967 East Second Street was his "office" to which the "ribbons" were brought on a daily basis. However, the "work", the actual slips of paper with the bets contained thereon, was not brought to the office but was instead routed to the "bank".

5. During the months of May-August, 1972, only sporadic surveillance was conducted on this portion of the subject policy operation represented by the GRIFFIN-MUSTACCHIO "office". However, in early September, 1972, surveillances under affiant's direction began again, starting with observations of JOSEPH MUSTACCHIO at his residence, 164-23 86th Street, Howard Beach, Queens. The surveillances reflected in the following paragraphs indicated that MUSTACCHIO was still involved in this illegal gambling business, and that he was receiving gambling records, most probably, "ribbons", from a "bank" believed to be located successively at 42-09 47th Avenue, Queens, 229 29th Street, Manhattan, 37-33 76th Street, Queens, and now 8-15 27th Avenue, Queens, New York.

I have had two and one half years experience in investigating numerous gambling operations, and one and one half years experience in the investigation of this and other operations believed to be under the control and direction of JAMES V. "JIMMY NAPP" NAPOLI, SR., and have conferred with other law enforcement gambling experts, as described in page 12 of Exhibit A.



From the analysis of the records seized at MUSTACCHIO's residence May 1, 1972, and conversation with MUSTACCHIO, and other workers in the "office", I know that in this operation, the bets and wagers were totaled daily at a "bank", and the "ribbons" reflecting the total bets made and "hits" or winning bets were then forwarded to MUSTACCHIO's "office", where he and other workers compiled a master sheet for all controllers, which showed for each the total bets made, the "hits" or winning number totals, and the percentage of the gross profits accruing to each controller, and to the higher echelon personnel.

I know from my cumulative experience in gambling investigations that the policy number for each day is determined by the amount bet that day at a designated racetrack, that the "Brooklyn number" is not determined until the post time of the last race, approximately 5 PM during daylight time and 4 PM during standard time, and that the "New York number", which allows bets on one and two digits as well as the normal three digit number, is determined for the first digit at post time of the third race, approximately 2:30 - 2:45 PM (daylight) and 1:30 - 1:45 PM (standard).

From this experience, analysis of the policy records seized May 1, 1972, from JOSEPH MUSTACCHIO, and abandoned September 13, 1972, by a male known as Barry Russo, and from admissions made by MUSTACCHIO about this operation, I believe that the surveillances referred to in paragraphs 6-46 establish a pattern of activity approximated by the following schedule, which is necessary for the profitable operation of this policy operation.

2:30 PM (standard), 4:00 PM (daylight), New York policy slips turned over to bank worker (Russo or Rossetti), after being turned in by bettors before third race post time (2:10 PM, November 30, 1972).

4:00 PM (standard), 5:30 PM (daylight), Brooklyn policy slips turned over to bank worker after being turned in by bettors before post time or last race (3:00 PM, November 30, 1972).

6:00 PM (standard), bank workers finish verifying "hits", or winning numbers, transferring these to "ribbons", adding machine tapes (duplicate tapes being made in this operation).

6:00 - 8:00 PM, ribbons transferred to "office", manned by MUSTACCHIO and others.

8:00 - 10:30 PM, "office" work, transferring ribbon figures to master sheets for each controller and runner, and duplicate ribbons given to delivery man (Scafidi) to return to controllers and runners, so the winners may be paid next day.



6. September 7, 1972

At 8:27 pm, JOSEPH MUSTACCHIO, in a gold Valiant bearing New York license TQ7318, drove north on Cross Bay Boulevard, Howard Beach, Queens to Woodhaven Boulevard, where he continued to the intersection of Metropolitan Avenue and Woodhaven Boulevard. There he met an unknown white male, thin build, 5'10", 165 pounds, long black hair, black rimmed glasses, 20's, hereafter referred to as JOHN DOE A. MUSTACCHIO then U-turned and proceeded to the vicinity of Conduit Avenue and 76th Street, Ozone Park, Queens. Meanwhile, JOHN DOE A entered New York City bus number 4142 (#53 Bridge Plaza) at the intersection of Metropolitan Avenue and Woodhaven Boulevard, which proceeded west on Metropolitan. JOHN DOE A exited the bus on Grand Avenue near the intersection of Graham Avenue, in the Williamsburg section of Brooklyn. He then walked to and entered the Elk's Head Bar at 328 Graham Avenue.

7. September 11, 1972

JOHN DOE A was observed standing in front of the Elk's Head Bar talking to another unknown white male, 6', 185-190 pounds, dark hair, hereafter referred to as JOHN DOE B. At 8:55 pm, a green Ford with a black vinyl top, bearing New York license 5309ZR, stopped on the west side of Graham Avenue, near the intersection of Devoe Street, Brooklyn, directly across from the Elk's Head Bar. This vehicle was driven by an unknown white male, 20's, 6', 210-220 pounds, long black hair, hereafter referred to as JOHN DOE C, also known as BARRY RUSSO. JOHN DOE A walked over and leaned inside 5309ZR, and then walked back and got into a white over brown Buick, bearing New York license KJ5704, which was parked on the east side of Graham near Devoe. KJ5704 was driven by JOHN DOE B and proceeded east on Metropolitan Avenue. 5309ZR proceeded west on Devoe Street. KJ5704 continued east to the intersection of Woodhaven Boulevard, and Metropolitan Avenue, Queens, where JOHN DOE A exited and entered a diner on the



northeast corner. KJ5704 U-turned and went west on Metropolitan. At 9:40 pm, JOSEPH MUSTACCHIO, in TQ7318, parked on Woodhaven just north of Metropolitan and entered the same diner as JOHN DOE A. At 9:42 pm, JOHN DOE A and MUSTACCHIO exited the diner together and MUSTACCHIO re-entered TQ7318 and U-turned going south on Woodhaven. JOHN DOE A boarded bus #53 (Bridge Plaza) and went west on Metropolitan. At 10:00 pm, TQ7318 was observed parked on Pitkin Street, near the intersection of 76th Street, Ozone Park, Queens.

8. September 12, 1972

At 8:20 pm, JOHN DOE A and JOHN DOE B in KJ5704 were observed proceeding east on Metropolitan Avenue, Brooklyn. KJ5704 continued on to the intersection of Woodhaven Boulevard, Queens, New York, where KJ5704 parked in front of the diner. JOHN DOE A exited, met with JOSEPH MUSTACCHIO and re-entered KJ5704, which proceeded west on Metropolitan; MUSTACCHIO entered TQ7318 and proceeded south on Woodhaven Boulevard.

9. September 13, 1972

At 7:51 pm, JOHN DOE C, also known as Barry Russo, driving 5309ZR, parked on Graham Avenue, just north of the Elk's Head Bar, and entered a luncheonette next to Grazia o's Grocery Store, Brooklyn, New York. At 8:04 pm, JOHN DOE C also known as Barry Russo exited the luncheonette and removed a large brown shopping bag from 5309ZR, deposited it in a trash can (see paragraph 43) adjacent to the Elk's Head Bar on Devoe Street, and returned inside the luncheonette. At 8:10 pm, JOHN DOE C also known as Barry Russo exited the luncheonette, entered 5309ZR and drove toward Metropolitan Avenue. At 8:20 pm, JOHN DOE A exited luncheonette, walked south on Graham to the Rite-Spot Bar at Graham and Ainslie, and appeared to make a telephone call. JOHN DOE A then walked to the intersection of Graham and Grand Avenues, Brooklyn, and boarded an eastbound New York City bus.



At 9:10 pm, JOHN DOE A was observed leaning into the driver's window of TQ7318, driven by JOSEPH MUSTACCHIO, which was parked on Woodhaven Boulevard, just south of Metropolitan Avenue, Queens, New York. TQ7318 then proceeded south on Woodhaven and JOHN DOE A walked to northeast corner of Woodhaven and Metropolitan and boarded a New York City bus #53 (Bridge Plaza) which continued west on Metropolitan toward the Williamsburg section of Brooklyn.

9A. September 14, 1972

At 8:16 pm, JOHN DOE C, also known as Barry Russo, parked 5309ZR on Graham Avenue, near Devoe Street, Brooklyn, New York. He conversed with JOHN DOE B in front of the Elk's Head Bar. JOHN DOE C, also known as Barry Russo, got back into 5309ZR and departed. JOHN DOE B got into KJ5704 which was parked on Devoe east of Graham and drove east on Metropolitan Avenue. At 8:52 pm, JOSEPH MUSTACCHIO in TQ7318 was observed driving north on Woodhaven across Metropolitan Avenue, Queens, New York. He proceeded north for several blocks, then U-turned and headed south on Woodhaven followed by KJ5704 driven by JOHN DOE B. At 9:15 pm, KJ5704 was observed parked in front of Elk's Head Bar, Brooklyn, New York.

10. September 15, 1972

At 2:51 am, JOHN DOE C, also known as Barry Russo, in 5309ZR, entered the Brooklyn-Queens Expressway eastbound at Union Street and Meeker Avenue in Brooklyn and proceeded to Long Island City, Queens, where he parked at the intersection of 43rd Street and 47th Avenue.

At 3:45 pm, JOHN DOE C, also known as Barry Russo, double-parked 5309ZR on 47th Avenue between 42nd and 43rd Streets, Long Island City, exited the car and entered 42-09 47th Avenue, carrying a small paper bag.



At 4:45 pm, JOHN DOE C, also known as Barry Russo, parked 5309ZR on 47th Avenue near 43rd Street and exited car accompanied by ROCCO RICCARDI and both entered 42-09 47th Avenue, Long Island City, JOHN DOE C carrying a large grocery bag. At 4:49 pm, JOHN DOE A was observed standing near Greenpoint Avenue and 42nd Street, a block from where 5309 ZR is parked.

11. On February 16, 1972, search warrants, issued in the Eastern District of New York and signed by United States Magistrate VINCENT A. CATOGGIO, were authorized for two JOHN DOES subsequently identified as ROCCO PATRICK RICCARDI and FAUSTINO A. CALDERIN. On February 17, 1972, RICCARDI and CALDERIN, while sitting together in a Ryder Rental Truck, were approached by Special Agents of the Federal Bureau of Investigation working under affiant's direction. A brown paper bag containing bundles of small manilla envelopes was observed lying at CALDERIN's feet on the floor board of the truck. This bag, which was seized and preserved as evidence, was subsequently identified by the Federal Bureau of Investigation Laboratory Gambling Section as containing the written records of a policy gambling operation. Prior to the date of this search, RICCARDI had been observed to meet CALDERIN on a daily basis at approximately the same time at the same location for the previous two months.

12. September 18, 1972

At 5:35 pm, JOHN DOE C, also known as Barry Russo, exited 42-09 47th Avenue, Long Island City, got into 5309ZR and drove to vicinity of Jackson Avenue and 21st Street, Queens, and then returned and parked in the same location and entered 42-09 47th Avenue. At 8:30 pm, JOHN DOE C, also known as Barry Russo, exited 42-09 47th Avenue, entered 5309ZR, proceeded west on the Brooklyn-Queens Expressway and exited at Metropolitan Avenue in the Williamsburg section of Brooklyn.



13. September 19, 1972

At 3:55 pm, JOHN DOE C, also known as Barry Russo, exited 42-09 47th Avenue, Long Island City, entered 5309ZR and drove south toward Brooklyn-Queens Expressway. At 4:10 pm, JOHN DOE C parks 5309ZR in driveway adjacent to apartment building at intersection of Jackson Avenue and Debevoise Avenue in Brooklyn. At 4:32 pm, RICCARDI and JOHN DOE C, also known as Barry Russo, in 5309ZR parked on 47th Avenue, Long Island City, and both entered 42-09 47th Avenue with RICCARDI carrying a large brown paper bag. At 8:05 pm, RICCARDI and JOHN DOE C exited 42-09 47th Avenue, entered 5309ZR and drove south toward the Brooklyn-Queens Expressway. At 8:15 pm, JOHN DOE C, alone in 5309ZR, exited the Brooklyn-Queens Expressway at Metropolitan Avenue in Brooklyn and drove to intersection of Graham Avenue and Conselyea Street. At 8:20 pm, JOHN DOE A walked to Graham and Conselyea and then walked back toward Elk's Head Bar, entered KJ5704 with JOHN DOE B, and proceeded east on Metropolitan Avenue, Brooklyn, New York. At 8:39 pm, JOSEPH MUSTACCHIO, in TQ7318, at the intersection of Woodhaven Boulevard and Metropolitan Avenue in Queens, got out of his car and walked to KJ5704 which was parked in front of 68-19 Woodhaven Boulevard. MUSTACCHIO leaned inside the passenger window of KJ5704 and then re-entered TQ7318, U-turned and proceeded south on Woodhaven Boulevard.

14. September 20, 1972

At 5:30 pm, JOHN DOE C, also known as Barry Russo, exited 42-09 47th Avenue, Long Island City, entered 5309ZR, proceeded to vicinity of Jackson Avenue and 21st Street, Queens, and then returned and entered 42-09 47th Avenue at 5:51 pm.



15. September 21, 1972

At 4:55 pm, JOHN DOE C, also known as Barry Russo, exited 42-09 47th Avenue, Long Island City, entered 5309ZR, and proceeded south on 42nd Street. At 5:13 pm, JOHN DOE C parked 5309ZR on 47th Avenue, Long Island City, and entered 42-09 47th Avenue. At 5:17 pm, JOHN DOE C exited 42-09 47th Avenue, entered 5309ZR and drove west on 47th Avenue. At 5:42 pm, JOHN DOE C parked on 47th Avenue at 42nd Street, Long Island City and entered 42-09 47th Avenue.

16. September 22, 1972

At 8:50 pm, KJ5704 was observed proceeding east on Metropolitan Avenue in Brooklyn, driven by JOHN DOE B with JOHN DOE A as passenger. At 9:05 pm, KJ5704 was observed at the intersection of Woodhaven Boulevard and Cooper Avenue, Queens, just north of Metropolitan Avenue. JOHN DOE A exited KJ5704 and walked to the east side of Woodhaven to TQ7318 driven by JOSEPH MUSTACCHIO. JOHN DOE A leaned inside driver's window and then returned to KJ5704. TQ7318 U-turned and went south on Woodhaven Boulevard.



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17. September 25, 1972

At 4:59 P.M., JOHN DOE A and JOHN DOE C, also known as Barry Russo, were in 5309ZR at the intersection of Jackson Avenue and 21st Street, Queens. JOHN DOE A exited the car and went into a subway station. 5309ZR proceeded on 21st Street to the Mid-Town Tunnel into Manhattan and parked on East 28th Street near 3rd Avenue. At 8:21 P.M., JOHN DOE C, also known as Barry Russo, entered 5309ZR still parked on East 28th and 3rd Avenue and proceeded through the Mid-Town Tunnel. At 8:33 P.M., 5309ZR was on Manhattan Avenue near its intersection with Metropolitan Avenue in Brooklyn. JOHN DOE A leaned into the window on driver's side, and then proceeded on foot to the Elk's Head Bar. 5309ZR went north on Manhattan Avenue.

17a. September 26, 1972

At 8:42 P.M. 5309ZR with JOHN DOE C, also known as Barry Russo, and individual believed to be ROCCO RICCARDI as passenger departed a parking spot on East 28th Street at 3rd Avenue, Manhattan, and proceeded through the Mid-Town Tunnel to Brooklyn. At 8:57 P.M. 5309ZR was parked at the corner of Manhattan Avenue and Devoe Street in Brooklyn and JOHN DOE A exited the car. At 9:25 P.M., KJ5704 proceeded east on Metropolitan Avenue in Brooklyn. At 9:35 P.M., JOSEPH MUSTACCHIO, in TQ7318, parked in front of a diner at Woodhaven Boulevard and Metropolitan Avenue, Queens. MUSTACCHIO exited TQ7318 and leaned into KJ5704 driven by JOHN DOE B, and then re-entered TQ7318, and departed south on Woodhaven Boulevard.

18. September 27, 1972

At 5:07 P.M., JOHN DOE C, also known as Barry Russo, exited 42-09 47th Avenue, Long Island City, entered 5309ZR and drove south on 43rd Avenue to the Brooklyn Queens Expressway west and exited at Metropolitan Avenue in Williamsburg, Brooklyn.



At 5:30 P.M. 5309ZR was observed parked, unoccupied, on East 29th Street near 3rd Avenue in Manhattan. At 5:34 P.M. ROCCO RICCARDI and JOHN DOE C, also known as Barry Russo, entered Lucy's Hero Grocery and Deli, 529 2nd Avenue, RICCARDI carrying a large brown paper bag and JOHN DOE C, also known as Barry Russo, carrying a smaller brown paper bag. At 5:46 P.M. RICCARDI and JOHN DOE C, also known as Barry Russo, entered 229 East 29th Street together. At 9:56 P.M. RICCARDI and JOHN DOE C, also known as Barry Russo, exited 229 East 29th Street, got into 5309ZR and proceeded through the Mid-town Tunnel.

19. September 28, 1972

At 5:50 P.M., 5309ZR was parked on 42nd Street at 47th Avenue, Long Island City, Queens, New York. At 10:02 P.M., JOHN DOE C, also known as Barry Russo, exited 42-09 47th Avenue, entered 5309ZR and proceeded south to Brooklyn Queens Expressway west. He exited at Metropolitan Avenue in the Williamsburg section of Brooklyn and went to Conselyea Street just west of Graham Avenue. JOHN DOE A was observed inside 5309ZR at 10:15 P.M. At 10:50 P.M., T07318, driven by JOSEPH MUSTACCHIO was observed heading east on Metropolitan Avenue and turning south onto Woodhaven Boulevard, Queens.

20. September 29, 1972

At 6:15 P.M., 5309ZR was observed unoccupied on East 29th Street, near 3rd Avenue, Manhattan. It was still parked in the same location at 8:05 P.M.

21. September 30, 1972

At 6:15 P.M., 5309ZR was parked, unoccupied, on East 30th Street, near 3rd Avenue, Manhattan. At 8:45 P.M., JOHN DOE C, also known as Barry Russo, parked 5309ZR on Graham Avenue, Brooklyn, entered Elk's Head Bar, and came back out in about two minutes and departed in 5309ZR.



22. October 2, 1972

At 4:58 P.M., 5309ZR was parked on East 29th Street near 3rd Avenue, Manhattan.

23. October 3, 1972

At 4:00 P.M., 5309ZR was double parked on 2nd Avenue near East 29th Street, Manhattan. At 4:20 P.M. JOHN DOE C, also known as Barry Russo, entered 229 East 29th Street. At 5:35 P.M. JOHN DOE A was walking south on 3rd Avenue near 29th Street. At 6:20 P.M. JOHN DOE C, also known as Barry Russo, and an unknown white male exited 229 East 29th Street together, entered 5309ZR and proceeded through the Mid-Town Tunnel to Brooklyn. At 7:00 P.M. JOHN DOE C, also known as Barry Russo, and the same unknown white male were observed in 5309ZR driving east on Meeker Avenue, and turning north on McGuinness Avenue, Williamsburg, Brooklyn.

24. October 5, 1972

At 3:54 P.M., 5309ZR, driven by JOHN DOE C, also known as Barry Russo, stopped at the corner of 49th Avenue and 21st Street, Queens, and JOHN DOE A got into car. 5309ZR proceeded to the corner of 21st Street and Jackson Avenue, Queens, and JOHN DOE A exited the car. 5309ZR continued north on 21st Street to 30th Drive, Astoria, Queens.

25. October 16, 1972

At 3:35 P.M., JOHN DOE C, also known as Barry Russo, exited 42-09 47th Avenue, Queens, entered 5309ZR and proceeded to Roosevelt Avenue between 81st Street and 82nd Street, Queens. At 3:35 P.M. an unknown white male, black hair, moustache, 5 feet 7 inches, 150 pounds, hereafter known as JOHN DOE D, walked up to 5309ZR and extended his hand inside the car. He then walked back across Roosevelt Avenue. At 3:55 P.M. 5309ZR was parked on 37th Avenue near intersection of 77th Street. JOHN DOE C, also known as Barry Russo, went into the drugstore on the northeast corner of 37th Avenue and 77th Street, Queens, where he was observed dialing the public phone. At 4:01 P.M. JOHN DOE C exited



the drive store, entered 5309ZR and drove to 77th Street near intersection of 37th Road, parked, and JOHN DOE C, also known as Barry Russo, walked into right hand door at residence at 37-33 76th Street, Queens, carrying a small brown paper bag. At 7:30 P.M., JOHN DOE C, also known as Barry Russo, exited 37-33 76th Street, entered 5309ZR and drove to Brooklyn Queens Expressway west. He exited at Metropolitan Avenue in Brooklyn. At 7:55 P.M., KJ5704 departed from Elk's Head Bar, 328 Graham Avenue, and proceeded east on Metropolitan Avenue.

26. October 17, 1972

At 3:45 P.M., JOHN DOE C, also known as Barry Russo, exited 42-09 47th Avenue, Queens and entered 5309ZR. At 3:54 P.M. 5309ZR parked on 76th Street near 37th Road, Queens, and JOHN DOE C, also known as Barry Russo, walked into 37-33 76th Street via right hand door. At 5:30 P.M. JOHN DOE C, also known as Barry Russo, exited 37-33 76th Street, entered 5309ZR, and drove west on Roosevelt Avenue. At 5:43 P.M., JOHN DOE C, also known as Barry Russo, returned and entered 37-33 76th Street, via right hand door carrying small brown paper bag. At 6:58 P.M. JOHN DOE C, also known as Barry Russo, exits 37-33 76th Street, put a large brown paper bag in the trunk of 5309ZR and drove south on 76th Street.

27. October 25, 1972

At 5:30 P.M. an unknown white male resembling JOHN DOE C, driving a red Chevrolet with a black convertible top, bearing New York license 7371XW, parked on 75th Street, south of Roosevelt Avenue, Queens, and entered a bus station. At 5:35 P.M., the same unknown male, accompanied by JOHN DOE D, got into 7371XW and proceeded to Roosevelt Avenue, and Broadway, where JOHN DOE D got out of car. At 6:02 P.M. the same unknown male entered 37-33 76th Street.



28. October 26, 1972

At 6:15 P.M., 5309ZR was parked unoccupied on 76th Street near Roosevelt Avenue, Queens. At 6:49 P.M. 5309ZR, driven by JOHN DOE C, also known as Barry Russo, proceeded west on Brooklyn Queens Expressway towards Brooklyn.

29. October 27, 1972

At 4:45 P.M., 7371XW was parked on 76th Street, near the residence at 37-33 76th Street, Queens. At 5:52 P.M., unknown white male resembling JOHN DOE C, also known as Barry Russo, exited 37-33 76th Street and walked to the Blarney Stone Bar at corner of Roosevelt Avenue and 76th Street. At 5:54 P.M., the same unknown white male exited Blarney Stone and went back into 37-33 76th Street. At 6:23 P.M. 7371XW proceeded south on 76th Street across Roosevelt Avenue. Also, another unknown white male, believed to be PASQUALE JOSEPH ROSSETTI, exited 37-33 76th Street and entered a red Chevrolet with a black vinyl top bearing New York license OH5287.

30. October 30, 1972

At 3:09 P.M., 5309ZR and OH5287 were both parked unoccupied on 76th Street, near 37-33 76th Street, Queens. At 3:58 P.M. JOHN DOE D, in a Hertz rental truck bearing New York license F61433, parked on Roosevelt Avenue just east of 76th Street, Queens. JOHN DOE C, also known as Barry Russo, met JOHN DOE D at the truck and then JOHN DOE C walked north and entered 37-33 76th Street carrying a small brown paper bag.

31. October 31, 1972

At 2:32 P.M., JOHN DOE C, also known as Barry Russo, parked 5309ZR in front of 37-33 76th Street, Queens, and walked into this residence. At 2:36 P.M., OH5287 was parked on 76th Street near 37th Avenue, Queens. At 3:25 P.M., the Hertz rental truck, F61433, was parked on Grand Avenue near intersection of Humboldt Avenue, Williamsburg, Brooklyn, with JOHN DOE D and



unknown white female inside the truck. At 3:42 P.M. F61433 proceeded along local streets to Brooklyn Queens Expressway east and exited at Roosevelt Avenue, Queens. At 3:56 P.M. F61433 parked on Roosevelt Avenue between 78th and 79th Streets. At 4:12 P.M., 5309ZR driven by JOHN DOE C, also known as Barry Russo, parked behind F61433 on Roosevelt Avenue, and JOHN DOE D met JOHN DOE C, also known as Barry Russo, near the Hertz truck where JOHN DOE D handed something to JOHN DOE C, also known as Barry Russo, and both departed, 5309ZR going back to 76th Street, and F61433 proceeding west to the Brooklyn Queens Expressway. At 5:30 P.M. an individual believed to be PASQUALE ROSSETTI exited 37-33 76th Street, entered OH5287, and drove south on 76th Street across Roosevelt Avenue. At 5:46 P.M. JOHN DOE C, also known as Barry Russo, exited 37-33 76th Street, entered 5309ZR and drove south on 76th Street. The lights in the windows of the first floor middle south side of 37-33 76th Street were extinguished after JOHN DOE C, also known as Barry Russo, had left, and they had been on before he left.

32. November 1, 1972

At 2:16 P.M., OH 5287, driven by an individual believed to be PASQUALE ROSSETTI, parked on 76th Street, and entered 37-33 76th Street, Queens. At 2:56 P.M., JOHN DOE C, also known as Barry Russo, entered 37-33 76th Street, Queens. At 4:45 P.M. an individual believed to be ROSSETTI walked north on 76th Street and entered the drug store at 37th Avenue and 76th Street and went into a public phone booth and appeared to make a call. At 4:48 P.M. he returned to 37-33 76th Street. At 5:31 P.M. an individual believed to be ROSSETTI left in OH5287. At 5:46 P.M. JOHN DOE C, also known as Barry Russo, exited 37-33 76th Street, entered 5309ZR, and drove to the Brooklyn Queens Expressway west.

33. November 3, 1972

At 4:30 P.M., 5309ZR was parked unoccupied near 37-33



76th Street, Queens.

34. November 6, 1972

At 3:00 P.M., 7371XW was parked unoccupied on east side of 76th Street, just north of 37-33 76th Street, Queens. At 4:03 P.M., JOHN DOE C, also known as Barry Russo, exited right side door of 37-33 76th Street, and walked to the intersection of Broadway and 75th Street, Queens, where JOHN DOE D exited Hertz rental truck F61433 which was parked on the southeast corner and walked directly over to JOHN DOE C, also known as Barry Russo, on the northeast corner. JOHN DOE D handed something to JOHN DOE C, also known as Barry Russo, which JOHN DOE C, also known as Barry Russo, put in his pocket and then JOHN DOE C, also known as Barry Russo walked north on 75th Street.

35. November 7, 1972

At 3:15 P.M., 7371XW parked unoccupied on 76th Street, near 37-33 76th Street, Queens.

36. November 8, 1972

At 3:10 P.M. a white male resembling JOHN DOE C, also known as Barry Russo, parked 7371XW on 76th Street, near 37-33 76th Street, Queens. JOHN DOE C exited car, and walked into 37-33 carrying a brown paper bag.

37. November 9, 1972

At 1:30 P.M., 7371XW was parked on 42nd Street, near 47th Avenue, Queens. At 2:10 P.M., an individual believed to be PASQUALE ROSSETTI walked south on 76th Street and entered 37-33 76th Street, Queens. QH5287 was parked in front of this address. At 3:00 P.M., JOHN DOE C, also known as Barry Russo, in 7371XW drove south on 76th Street and parked in front of 37-33 76th Street. At 3:10 P.M. QH5287 and 7371XW departed from 37-33 76th Street. At 4:00 P.M. QH5287 was parked unoccupied on 47th Avenue near the corner of 42nd Street, Queens. At 8:25 P.M. JOSEPH MUSTACCHIO in TQ7318 parked on Woodhaven Boulevard, near the intersection of 67th Drive, Queens. An orange and white U-haul truck bearing New York license 770468 was parked on 67th Drive. MUSTACCHIO exited



TO7318 and JOHN DOE D ran up to him and handed him something. MUSTACCHIO re-entered TO7318, U-turned and proceeded south on Woodhaven Boulevard, continuing on to 76th Street between Pitkin Avenue and Conduit Boulevard and entered the residence at 107-28 76th Street, Queens, New York.

38. November 14, 1972

At 3:00 P.M. JOHN DOE D exited the Easy Parcel Service, 561 Graham Avenue, Brooklyn, entered 770468, and drove to the intersection of Bedford Avenue and Myrtle Avenue, Brooklyn. At 3:20 P.M. JOHN DOE D exited 770468 and walked to a brown Chevrolet bearing New York license UF8491 which was parked on Myrtle. At 3:30 P.M. JOHN DOE D re-entered 770468 and drove to Broadway between 29th and 30th Streets, Queens, where he parked. At 4:05 P.M. JOHN DOE C, also known as Parry Russo, in 5309ZR parked on Broadway at 29th Street and JOHN DOE D entered 5309ZR. At 4:07 P.M. JOHN DOE D exited 5309ZR, re-entered 770468 and departed. At 4:13 P.M. 5309ZR proceeded along local streets to 9th Street, near the intersection of 27th Avenue, Queens, where JOHN DOE C, also known as Barry Russo, parked and walked into an apartment building at 8-15 27th Avenue, Astoria, Queens.

39. November 15, 1972

At 2:15 P.M., QH5287 was parked unoccupied in front of 8-15 27th Avenue, Queens. At 4:20 P.M. 5309ZR was also parked unoccupied in front of 8-15 27th Avenue, Queens. At 6:03 P.M., an individual believed to be PASQUALE ROSSETTI exited 8-15 27th Avenue, entered QH5287 and departed. At 6:08 P.M. JOHN DOE C, also known as Barry Russo, exited 8-15 27th Avenue, entered 5309ZR and departed. At 6:18 P.M. JOHN DOE C, also known as Barry Russo, in 5309ZR parked in front of Easy Parcel Service, 561 Graham Avenue, Brooklyn, exited car and walked inside. At 6:19 P.M. JOHN DOE C, also known as Barry Russo, exited 561 Graham talking to JOHN DOE D and JOHN ELIAS GARCIA, also known as Biggey. JOHN DOE C re-entered 5309ZR and drove south on Graham Avenue. At 6:47 P.M. JOHN DOE D exited 561 Graham Avenue, entered 770468 and



departed. At 7:25 P.M. JOHN DOE D parked 770468 in front of "Bitet Travel Agency", 105-10 Cross Bay Boulevard, Queens, and walked inside the Agency carrying a small package and then came right back out, re-entered 770468, u-turned and drove north on Cross Bay Boulevard. At 7:51 P.M. T07318 parked in front of "Bitet Travel Agency" and JOSEPH MUSTACCHIO exited this car and walked into the Agency. MUSTACCHIO was met inside by an unknown white male, heavy set, long brown wavy hair, middle twenties. MUSTACCHIO then walked into a back room out of sight.

40. November 16, 1972

At 4:00 P.M., a black over yellow Ford bearing New York license 16Z864, driven by JOHN DOE D, was observed proceeding south on McGuinness Boulevard, Brooklyn. It continued on local streets to 21st Street and 34th Avenue, where he was met by JOHN DOE C, also known as Barry Russo, driving 5309ZR. At 4:22 P.M. 5309ZR parked on 9th Street, near 27th Avenue, Queens, and JOHN DOE C, also known as Barry Russo, entered 8-15 27th Avenue. Also parked on 9th Street was OH5287. At 6:15 P.M., 5309ZR double parked in front of 561 Graham Avenue, Brooklyn, and JOHN DOE C, also known as Barry Russo, entered Easy Parcel Service. At 6:16 P.M. JOHN DOE C, also known as Barry Russo, exited 561 Graham Avenue, re-entered 5309ZR and departed. At 9:08 P.M. JOSEPH MUSTACCHIO approached entrance to "Bitet Travel Agency", 105-10 Cross Bay Boulevard, Queens. The door was opened by an unknown white male, forties, glasses, short hair, and they both went into a rear room out of sight. At 10:25 P.M. MUSTACCHIO exited the Agency and entered T07318 and drove to 161-20 91st Street, Howard Beach, Queens, where he parked and met with LUIGI SCAFIDI on the front steps of SCAFIDI's home. At 10:39 P.M., MUSTACCHIO departed in T07318, and SCAFIDI entered a black over maroon Chrysler bearing New York license OK7579 and drove toward Cross Bay Boulevard.

41. November 17, 1972

At 4:35 P.M. OH5287 was parked in the vicinity of 8-15 27th Avenue, Queens. At 4:39 P.M. JOHN DOE D in 16Z864 parked on



9th Street near the corner of 27th Avenue, exited the car, and stood near the corner. At 4:40 P.M. JOHN DOE C, also known as Barry Russo, exited 8-15 27th Avenue and walked to JOHN DOE D at the corner where they appeared to exchange something. JOHN DOE D then re-entered 16Z864 and departed, while JOHN DOE C, also known as Barry Russo, re-entered 8-15 27th Avenue. At 6:29 P.M. JOHN DOE C, also known as Barry Russo, and an individual believed to be PASQUALE ROSSETTI exited 8-15 27th Avenue, entered QH5287 and proceeded along local streets to Easy Parcel Service at 561 Graham Avenue, Brooklyn. JOHN DOE C, also known as Barry Russo, entered 561 Graham for about 30 seconds and then re-entered QH5287 and departed.

42. November 20, 1972

At 2:40 P.M., an individual believed to be PASQUALE ROSSETTI, driving QH5287, parked on 9th Street and entered the apartment building at 8-15 27th Avenue, Queens. At 2:48 P.M. JOHN DOE D in 16Z864 met with JOHN DOE C, also known as Barry Russo, in 7371XW at the corner of 8th Street, and Astoria Boulevard, Queens. JOHN DOE D handed JOHN DOE C, also known as Barry Russo, a small package. At 2:49 P.M. JOHN DOE C, also known as Barry Russo, drove 7371XW to 9th Street, and 27th Avenue and entered 8-15 27th Avenue. At 3:00 P.M. 16Z864 driven by JOHN DOE D was observed proceeding south on McGuinness Boulevard, Brooklyn. It continued to the vicinity of Park Street and Tompkins Street, Brooklyn where it parked on Tompkins. At 3:33 P.M., UE8491 driven by an unknown Negro male, double parked next to 16Z864 on Tompkins and JOHN DOE D walked to UE8491. At 3:36 P.M. JOHN DOE D re-entered 16Z864 and proceeded along local streets to 12th Street, near 27th Avenue, Queens, where it parked at 3:55 P.M. At 3:57 P.M., JOHN DOE C, also known as Barry Russo, exited 8-15 27th Avenue, walked west on 27th Avenue, then returned and entered 7371XW and drove east on 27th Avenue and north on 12th Street to where 16Z864 was parked. At 4:07 P.M. JOHN DOE C, also known as Barry Russo, re-entered 8-15 27th Avenue.



43. During the course of a surveillance in the vicinity of the Elk's Head Bar, 328 Graham Avenue, Brooklyn, New York, on September 13, 1972, at 8:05 p.m., Special Agents under the direction of the affiant observed BARRY RUSSO remove a grocery bag from a 1963 Ford bearing New York license 53007R and place it in a trash can on Devoe Street, adjacent to the Elk's Head Bar. This trash can was under constant surveillance from 8:05 p.m. to 8:30 p.m. when the grocery bag was removed. It was the only bag of its kind in the trash can and it contained numerous smaller bags and pieces of paper with numerical and alphabetic notations which were submitted to the Federal Bureau of Investigation Laboratory Gambling Section for analysis. By a Laboratory report dated October 10, 1972, affiant was advised that the examination of the evidence submitted reflected that "The foregoing described material is the type located and associated with a professional numbers writing operation and related to the bank or office". Also, "The volume of the materials discloses this material to be part of a large volume numbers operation". The Laboratory report also pointed out that many of the wagering slips submitted from the grocery bag removed from the trash on September 13, 1972, bear account designations similar to those on specimens submitted for examination which were seized during the search of 967 East 2nd Street, Brooklyn, New York, on May 1, 1972. In addition, the Laboratory report concluded that one of the slips submitted from the evidence seized on May 1, 1972, and one of the slips submitted from the evidence found in the trash can on September 13, 1972, were written by the same person.

44. On November 1, 1972, Mrs. ANELIA BOGGIO, 37-56 76th Street, advised affiant that she is the rental agent for the building at 37-33 76th Street, Queens, New York. Mrs. BOGGIO advised that the building at 37-33 76th Street, contains six



fully furnished apartments, the most recent tenants of which were two men who occupied the middle apartment on the ground floor. One of the two men calling himself BARRY RUSSO was described by her as a husky young man in his twenties whom she said drove a green Ford. The individual known to her as BARRY RUSSO, signed a one year lease, giving her \$400.00 in cash (two hundred dollars per month, plus one month in advance as security). She further stated that at her request, RUSSO brought the other man to her for inspection. The two men took occupancy on approximately October 10, 1972.

On November 13, 1972, Mrs. BOGGIO advised affiant that the individual known to her as BARRY RUSSO approached her on November 8, 1972, and asked when the next payment of rent was due and that she advised him that \$200.00 would be due on November 10. Mrs. BOGGIO advised that she had not seen either of the two men since that date. She left two notes in their apartment and in the second note she advised that if the rent were not paid by 5:00 p.m. on November 10, 1972, she would relet the apartment. Mrs. BOGGIO advised that when she entered the apartment to leave the note, it was completely empty except for the furniture which came with the apartment.

45. On November 20, 1972, MICHAEL MARS, Superintendent Wardell Apartments, Incorporated, 8-15 27th Avenue, Astoria, Queens, New York, advised that he had observed on November 14, 1972 a white male, husky, in his twenties, entering the apartment house at 8-15 27th Avenue, Astoria. Mr. MARS stated that since he did not recognize this individual as a tenant, he stopped the unknown individual and asked where he was going. This individual advised Mr. MARS that he was going to apartment 300 to visit his girl friend.



On November 20, JOHN DOE C was observed by affiant to exit the building at approximately 3:57 p.m. At this time, JOHN DOE C was pointed out to Mr. MARS by affiant. Mr. MARS stated that he was positive that this was the individual who he had stopped on November 14, 1972, and that he had seen him coming and going on several occasions since then, usually in the late afternoon. At approximately 7:04, JOHN DOE C was observed to reenter the building at 8-15 - 27th Avenue, and to enter the elevator with Mr. MARS on the ground floor. Mr. MARS advised that JOHN DOE C got off the elevator on the second floor. A moment later, JOHN DOE C was observed by affiant to exit the elevator on the ground floor. Mr. MARS then proceeded to the stairwell on the third floor and advised that a few moments later he observed JOHN DOE C enter Apartment 309 utilizing a key.

Mr. MARS advised that Apartment 309, which is a one-bedroom apartment, at 8-15 - 27th Avenue, was leased to PHYLLIS A. ENGERT, who is employed as a medical secretary for a doctor in the Bronx. She is approximately twenty-five years of age, and is single.

46. On November 13, 1972, a review of the records of the New York City Police Department by affiant revealed that PASQUALE JOSEPH ROSSETTI had been arrested on ten occasions since August, 1958, all but one arrest being for possession of gambling records or promoting gambling. Disposition is not shown on two of the arrests, and four convictions are reflected.

a. On November 28, 1972, a review of the records of the New York City Police Department revealed that LUIGI SCAFIDI was arrested for the following gambling offenses: on May 16, 1972, with



MARTIN GRIFFIN, Jr., SCAFIDI being in possession of policy slips; for gambling conspiracy on June 16, 1972, near the intersection of Lenox Road and Rockaway Parkway, Brooklyn, New York, with MARTIN GRIFFIN, Jr., SALVATORE ANNARUMMO, GEORGE WEST and a male known only as LIGHTFOOT, the latter two men possessing policy slips totalling more than 1900 plays; and for gambling on August 10, 1972, at Nostrand Avenue and Rutland Road, Brooklyn, with LEON WILSON and JUAN "BIGGY" GARCIA, with policy slips totalling more than \$17,000 found in an automobile at the scene of the arrest.

b. On November 28, 1972, Confidential Informant Number One (as described in paragraph one of my affidavit of May 1, 1972) told affiant that from personal conversations with JOSEPH MUSTACCHIO within the last two weeks, he knows that MUSTACCHIO continues to do the accounting in the "office" of the GRIFFIN policy leg, and that he still works in this operation with GENE SCAFIDI.



48. My experience and the experience of other agents has shown that gambling raids and searches of gamblers and their gambling establishments have not, in the past, resulted in the gathering of physical or other evidence to prove all elements of the offenses against all involved within purview of Title 18, United States Code Section 1955. I have found through my experiences and the experiences of other Special Agents who have worked on gambling cases, that gamblers frequently do not keep permanent records. If such records have been maintained, gamblers immediately, prior to or during a physical search, destroy them. Additionally, records that have been seized in past gambling cases generally have not been sufficient to establish all elements of a Federal gambling offense because such records are difficult to interpret and many times are of little or no significance without further knowledge of the gambler's activities and nature of the operation.

49. I know from my cumulative experience described herein and in Exhibit A, and based upon my consultation with gambling experts of the New York City Police Department, and with other agents of the Federal Bureau of Investigation, that the activities and conduct of the individual believed to be PASQUALE JOSEPH ROSSETTI and of JOHN DOE C, also known as Barry Russo, are entirely consistent with the operation of a policy "bank" or office. Policy bank workers play an integral part in the management of illegal gambling businesses inasmuch as they are responsible for tallying and confirming bets and winning numbers on a daily basis in order for "hits" or winning wagers to be paid the following day. Bank workers are trusted employees, and they are the main link in the chain of connection between the lower echelon runners, controllers, and pick-up men, with the upper echelon figures who do not physically participate in



the daily operation, but who actually manage, supervise, finance, own and direct large scale policy operations and profit from the revenue generated by them. I know from my experience that large scale illegal policy operations normally utilize a number of banks or offices in different locations with different employees. If one bank is discovered by law enforcement officials, its detection does not disrupt the entire operation. Experience has also demonstrated that searches and seizures in one location and arrest of employees in the lower echelon is often just a temporary disruptive influence, solved by merely replacing employees and setting up in a new location.

50. Expert analysis by the Federal Bureau of Investigation Laboratory Gambling Section of evidence seized in banks of this operation have established that one bank may handle in excess of \$10,000,000 in annual wagers. Allowing for adequate compensation for runners, controllers, pick-up men and bank workers, the additional gambling revenues are impossible to trace through the limited investigative technique of physical surveillance. In addition, this particular gambling operation is designed so that all monies are maintained separately from the betting records. Previous searches conducted on banks in this operation by agents working under affiant's direction have yielded gambling records, but no monies. I have found through my experience and the experience of other Special Agents who have worked on gambling cases, that records that have been seized in past gambling raids in this operation have not been sufficient to establish all elements of a Federal Offense against the upper echelon figures who actually direct and profit from the gambling operation because of their deliberately limited physical contact and participation. It is anticipated that interception of oral communications between trusted bank employees will result in tracing the channels of



illegal gambling revenues to their ultimate destination; establishing the physical locations of other policy banks in this operation; and establishing the identities of others involved in the continuing conspiracy of maintaining an illegal gambling business, and their connection with other upper echelon gambling personnel.

51. For the reasons set forth in paragraphs 47 - 50, all normal avenues of investigation and prosecution have been exhausted or have been considered too risky to attempt. The only reasonable and feasible investigative procedure remaining which can furnish the required quantum of evidence sufficient to prove beyond a reasonable doubt that JOSEPH MUSTACCHIO; LUIGI SCAFIDI, also known as Gene; an individual believed to be PASQUALE JOSEPH ROSSETTI; an individual known as BARRY RUSSO; an individual referred to herein as JOHN DOE D and others yet unidentified are conducting, financing, managing, supervising, directing, or owning all or part of an illegal gambling business in violation of Title 18, United States Code, Sections 371 and 1855, is to intercept the oral communications at apartment 309, 8-15 27th Avenue, Astoria, Queens, New York.

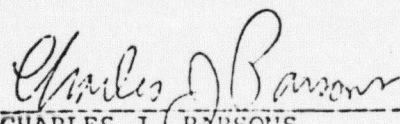
52. Inasmuch as the gambling operation described herein is apparently a continuing criminal conspiracy, the evidence sought through the continued interception of oral communications to and from the subject premises is expected to be obtained on a continuing basis on several days succeeding the first receipt of the communications which are the objective of this application. Therefore, it is requested that these interceptions not terminate when the sought communications are first obtained, but continue until interception reveals the identities of the confederates of JOSEPH MUSTACCHIO; LUIGI SCAFIDI, also known as Gene; an individual believed to be PASQUALE JOSEPH ROSSETTI; an individual known as BARRY RUSSO; an individual referred to herein as JOHN DOE D and



others as yet unidentified, their places of operation, and the nature of the conspiracy involved therein, or for a period of fifteen days from the date of the order, whichever is earlier.

WHEREFORE, I submit that the information supplied by the reliable informants, and records and surveillances set forth in the preceeding paragraphs, and my incorporated affidavit, provides sufficient facts to establish probable cause that JOSEPH MUSTACCHIO; LUIGI SCAFIDI; also known as Gene; an individual believed to be PASQUALE JOSEPH ROSSETTI; and individual knowns as BARRY RUSSO; an individual referred to herein as JOHN DOE D and others as yet unidentified have been and are now committing offenses involving the conducting, financing, managing, supervising, directing or owning all or part of an illegal gambling business in violation of Section 225.0 through 225.40 of the New York Penal Law and also in violation of Sections 371 and 1955 of Title 18, United States Code.

Section 803 of Title 18, entitled, "Syndicated Gambling of the Organized Crime Control Act of 1970", Public Law 91-452, 91st Congress, approved October 15, 1970, amended Chapter 95, Title 18, United States Code by adding a new sections, Section 1955, Prohibition of Illegal Gambling Business. Section 801 of Title VIII of the Act contains special finding that illegal gambling involves widespread use of and has an effect upon interstate commerce and the facilities thereof.

  
 CHARLES J. PARSONS

Subscribed to and sworn to  
 before me this 8th day of  
 December, 1972

  
 n. j.



## United States District Court

FOR THE

EASTERN DISTRICT OF NEW YORK

Magistrate's Docket No. ....

Case No. ....

UNITED STATES OF AMERICA

vs.

Martin Griffin Jr., Joseph Mastacchio, Luigi Scalfidi, Robert Vuolo, and John Doe #1, the premises known as 967 East Second Street, Brooklyn, New York, and the automobiles bearing New York license plates PQ 9582, 0387 KJ and OK 7579.

AFFIDAVIT FOR  
SEARCH WARRANT

BEFORE

Name of Magistrate

Address of Magistrate

The undersigned being duly sworn deposes and says:

That he ~~(is a resident of)~~ (on the person of) Martin Griffin, Jr.  
(is a resident of) that ~~the premises known as 967 East Second Street, Brooklyn, New York, and the automobiles bearing New York license plates PQ 9582, 0387 KJ and OK 7579.~~  
Joseph Mastacchio, Luigi Scalfidi, Robert Vuolo, and John Doe #1, the premises known as 967 East Second Street, Brooklyn, New York, and the automobiles bearing New York license plates PQ 9582, 0387 KJ and OK 7579.

in the Eastern

District of New York

there is now being concealed certain property, namely gambling bots, records, papers, books, money paraphernalia equipment and apparatus.  
here describe property

which are evidence of and instrumentalities used in the financing, conducting, financing managing, supervising, directing or owning an illegal gambling business in violation of the New York Penal Code and of Sections 1955 and 371 of Title 18, United States Code.

And that the facts tending to establish the foregoing grounds for issuance of a Search Warrant are as follows:

SEE ATTACHED

Charles J. Parsons  
Special Agent, FBI  
Signature of Agent  
Official Title, if any

Sworn to before me, and subscribed in my presence,

MAY 1 1972  
VINCENT A. CALUGGIO

United States Magistrate



1. Your affiant has been apprised by a confidential informant who has provided information to the Federal Bureau of Investigation for the past two years on at least twenty occasions and which has led to the conviction of two individuals and to the indictment of seven individuals for violations of the gambling laws of the United States. This informant told affiant on April 24, 1972 that he personally knows that one of the branches of a large-scale gambling operation in New York City, is supervised by one Martin Griffin, Junior. Confidential informant number one further stated that Griffin, Jr. and several other individuals are working in a policy "bank" at an unknown location and that the location of this bank is moved frequently so as to avoid detection by law enforcement agencies. Confidential informant number one further stated that at least one of the individuals working in the bank delivers "ribbons" in the late evenings to various controllers. Information furnished by this informant in the past has been checked and verified by independent investigation and surveillance and has always been found to be reliable and accurate in all respects.
2. Confidential informant number two is an associate of Martin Griffin Jr. and Joseph Mustacchio. He has had conversations with them regarding their gambling activities. Information provided by this informant has been checked thoroughly and verified by independent Federal Bureau Investigation and surveillance and has been found to always be accurate in all respects.

Confidential informant number two advised affiant in mid-March, 1972 that Joseph Mustacchio of 164-23 86th Street, Howard Beach, New York had told him in March, 1972 that Mustacchio was currently working as a "bank-worker" with Martin Griffin, Jr. and several other individuals. Mustacchio stated that his function was to tabulate the day's receipts and payouts for which he was paid \$150.00 per week. Mustacchio advised Confidential informant number two that the policy bank was formerly located at Martin Griffin's girlfriend's apartment near Ocean Parkway and Avenue I but had been recently moved. (The intersection of Ave. I and Ocean Parkway is about four blocks from 967 E. 2nd Street.)



Confidential source number two further advised that Mustacchio drives both a gold Valiant bearing New York license TQ 7318 and a green Volkswagen bus bearing New York license 9082 P2. Martin Griffin Jr. drives a brown Lincoln continental bearing New York license PQ 9582. Informant number two stated that Mustacchio said he receives a phone call at approximately 8:30 p.m. each evening at either his house or at his beauty shop, "The Obsession" which is located at Cross Bay Blvd. at 163rd Avenue in Howard Beach. Mustacchio would then meet someone to pick up policy "work." This individual is believed by informant number two to come from the Williamsburg section of Brooklyn and sometimes meets Mustacchio near the intersection of Myrtle Avenue and Woodhaven Blvd. After this meeting Mustacchio proceeds to the "bank" where he and Griffin and other process the "work." This takes approximately two hours and Mustacchio returns to his residence at approximately 11 o'clock to 12 o'clock p.m.

3. Affiant has been advised by Lieutenant Walter Casey of the Public Morals Administrative Division, New York City, that on June 16, 1971 he and men working under his direction executed a search warrant and made three arrests inside 405 Elderts Lane, Brooklyn, New York. The following individuals were arrested:

- a. Martin Griffin Jr. (also known as "Buddy") who gave his address as 57 Arkansas Drive, Valley Stream, New York.
- b. Luigi Scafidi (also known as Gene) who gave his address as 161-20 91st Street, Howard Beach, Queens, New York.
- c. Robert Vuolo, who gave his address as 86-17 157th Avenue, Howard Beach, Queens, New York.

The following items were found with the arrested individuals at 405 Elderts Lane:

- a. 66 policy slips representing 21,271 plays.
- b. 275 controller "ribbons" (affiant from his law enforcement experience knows that controller ribbons are summaries of policy work.)
- c. 75 collection slips.
- d. 25 claim slips.
- e. \$2,013.00 in United States currency.
- f. 2 adding machines.

Review of gambling records seized by Lieutenant Casey and his unit indicates that this bank did a daily volume of \$50,324.25 per day representing eleven controllers and 354 collectors.



Identonant Casny advised affiant on April 14, 1972 that during the course of his investigation he had observed Vuolo, Griffin, and Scafidi, appear at 967 East Second Street in the evening hours on a regular basis. These individuals then stopped appearing at 967 East Second Street and began appearing instead at 405 Elderts Lane, which upon the arrests and search was confirmed to be a policy bank.

4. On March 29, 1972 a review of the records of the New York City Police Department by affiant revealed the following:

- a. Luigi Scafidi has been arrested on twelve occasions since February 1966, all for possession of gambling records. Disposition is not shown on seven of the arrests, and one conviction is reflected. He was last arrested on June 16, 1971 with Griffin and Vuolo.
- b. Martin Griffin Jr. has been arrested eight times since January, 1965, all for possession of gambling records. Disposition is not shown on three of the arrests, and two convictions are reflected. He was last arrested on June 16, 1971 with Scafidi and Vuolo.
- c. Robert Vuolo has been arrested on two occasions, on June 16, 1971 and February 6, 1972, both for possession of gambling records. No disposition is reflected on either arrest.

5. A check of New York State registration indices reflect the following:

- a. License number 9692 FZ is listed to Joanne Mastacchio, 164-23 86th Street, Howard Beach, Queens, New York for a green and white Volkswagen bus.
- b. License number TQ 7318 is listed to Joanne Mastacchio, 164-25 97th Street, Howard Beach, Queens, New York for a 1969 gold Valiant, (Plymouth).
- c. License number PQ 9582 is listed to Jane Morris, 75-23 174th Street, Flushing, Queens, New York for a 1972 brown Lincoln Continental.
- d. License number OK 7572 is listed to Eugene Scafidi, 161-20 91st Street, Howard Beach, Queens, New York for a 1966 blue Chevrolet.
- e. License number 205 UN is registered to Jane Morris, 75-23 174th Street, Flushing, Queens, New York for a 1967 Gold Chevrolet.
- f. License number UE 4462 is registered to Linda L. Conrado, 1516 91st Street, Howard Beach, Queens, New York for a 1965 Black Mustang.
- g. License number 8387 EJ is registered to Virghilio Fancetta, 69-28 60th Drive, Hempeth, Queens, New York for a 1963 White Mercury.
- h. License number EJ 9101 is listed to Viola J. Nordstrom, 967 East Second Street, Brooklyn, New York for a 1972 Brown Chevrolet.
- i. License number OL 2132 is listed to Virginia Scarpice, 161-20 91st Street, Howard Beach, Queens, New York for a 1969 Blue Mustang.



6. During the course of a surveillance of Joseph Mustacchio at 164-23 86th Street, Howard Beach, Queens, New York on March 29, 1972, at 7:57 p.m. agents working under the direction of affiant observed Mustacchio carrying a trash can from behind his residence and place it at the curb adjacent to 86th Street. At approximately 1:30 a.m. on March 30, 1972 agents confiscated the contents of trash on the grass plot between the street and the curb in front of the residence and removed seven pieces of paper of varying sizes which appeared to be written records of a policy bank operation. Also found in the same trash can but not removed were numerous pieces of paper with the name Joseph Mustacchio written on them. Pieces of paper confiscated were submitted to the Federal Bureau of Investigation Laboratory Gambling Section for expert examination. By a communication dated April 21, 1972 from the Federal Bureau of Investigation Laboratory Gambling Section, affiant was advised that the examination reflected that "The submitted specimens are the type located and associated with a numbers writing operation often referred to as policy." The lab report also stated that certain of the specimens are "over look" slips of the type executed by the writer and forwarded to the main bank or operation center when a better fails to receive pay-off on a winning wager. The payoff rate as indicated on the "over look" slips is 550 to 1."
- A comparison by affiant of the code designations for controllers and runners found on the specimens with the code designations on the policy gambling records seized by Lieutenant Walter Casey and his unit, NYCPD READ on June 16, 1971 at 405 Elderts Lane, Brooklyn, New York, established that the code designations correspond in every instance, e.g., "D200."



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

IN THE MATTER OF THE APPLICATION FOR THE  
UNITED STATES FOR AN ORDER AUTHORIZING  
THE INTERCEPTION OF ORAL COMMUNICATIONS

AUTHORIZING INTERCEPTION OF ORAL COMMUNICATIONS

TO: Special Agents of the Federal Bureau of Investigation  
United States Department of Justice

Application under oath having been made before me by Fred F. Barlow,  
Special Attorney with the Organized Crime and Racketeering Section of the  
United States Department of Justice, and an "investigative or law enforcement  
officer" as defined in Section 2510 (7) of Title 18, United States Code,  
for an Order authorizing the interception of oral communications pursuant  
to Section 2518 of Title 18, United States Code, and full consideration  
having been given to the matter set forth therein, the Court finds:

a) there is probable cause to believe that James Vincent Napoli, Sr.,  
also known as Jimmy Napp; James Napoli, Jr., also known as Jimmy Jr. and  
Lefty; Martin Casella, also known as Motts; Anthony DiMatteo, also known  
as Tony Apples; Michael DeLuca, also known as Mikey Jr.; Richard Bascetta,  
also known as Shotgun; and others as yet unknown have committed and are  
committing offenses involving the conducting, financing, managing, supervising,  
directing, or owning in whole or part, a gambling business which (1) violates  
Article 225 of the New York State Revised Penal Laws, (2) involves five or  
more persons who conduct, finance, manage, supervise, direct, or own all  
or part of such business, and (3) remains in substantially continuous  
operation for a period in excess of thirty (30) days or has a gross  
revenue of \$2,000 in any single day, in violation of Section 1955 of Title 18,  
United States Code, and the conspiring to commit said federal offenses in  
violation of Section 371, Title 18, United States Code.

b) there is probable cause to believe that particular oral communications  
of James Vincent Napoli, Sr., also known as Jimmy Napp; James Napoli, Jr.,  
also known as Jimmy, Jr. and Lefty; Martin Casella, also known as Motts;  
Anthony DiMatteo, also known as Tony Apples; Michael DeLuca, also known as  
Mikey, Jr.; Richard Bascetta, also known as Shotgun; and others concerning these

*Barlow Order 6/11/73*  
*Hi Way I Order 4/15/73*  
*4/15/73 for 15 days*  
*Write up + Reg (Di Matteo)*  
*Taped Alameda 5/3/73*

*Inventory (?)*



offenses will be obtained through the interception, authorization for which is herein applied for. In particular, these oral communications will concern the conduct, financing, management, supervision, direction and ownership of a wagering and betting business, the duration and continuity of the operation of this business, the number, degree of participation and identity of persons active thereof, the location from which the participants operate, the origin and destination of bets, and the amount of revenue involved in such betting business.

c) normal investigative procedures reasonably appear to be unlikely to succeed if tried further.

d) there is probable cause to believe that the premises located at The Highway Lounge, 362 Metropolitan Avenue, Williamsburg, Brooklyn, New York, have been and are being used by James Vincent Napoli, Sr., also known as Jimmy Napp; James Napoli, Jr., also known as Jimmy, Jr. and Lefty; Martin Casella, also known as Motts; Anthony DiMatteo, also known as Tony Apples; Michael DeLuca, also known as Mikey, Jr.; Richard Bascetta, also known as Shotgun; and others as yet unknown in connection with the commission of the above-described offenses.

WHEREFORE, it is hereby ordered that:

Special Agents of the Federal Bureau of Investigation, United States Department of Justice, are authorized pursuant to application by the Attorney General of the United States, the Honorable Richard G. Kleindienst under powers conferred on the Attorney General by Section 2516 of Title 18, United States Code, to intercept oral communications of James Vincent Napoli, Sr., also known as Jimmy Napp; James Napoli, Jr., also known as Jimmy, Jr. and Lefty; Martin Casella, also known as Motts; Anthony DiMatteo, also known as Tony Apples; Michael DeLuca, also known as Mikey, Jr.; Richard Bascetta, also known as Shotgun; and others as yet unknown concerning the above-described offenses at the premises located at The Highway Lounge, 362 Metropolitan Avenue, Williamsburg, Brooklyn, New York.

Such interception shall continue until communications have been intercepted which reveal the manner in which James Vincent Napoli, Sr., also known as Jimmy Napp; James Napoli, Jr., also known as Jimmy, Jr. and Lefty; Martin Casella, also known as Motts; Anthony DiMatteo, also known as Tony Apples; Michael DeLuca, also known as Mikey Jr.; Richard Bascetta, also known as Shotgun; and others as yet unknown participate in this illegal gambling business and which reveal the identities of their



confederates, their places of operation and the nature of the conspiracy involved therein, or for a period of fifteen (15) days (excluding Sundays) from the date of this Order, whichever is earlier.

PROVIDING THAT, this authorization to intercept oral communications shall be executed as soon as practicable after signing of this Order and shall be conducted in such a way as to minimize the interception of conversations not otherwise subject to interception under Chapter 119 of Title 18, United States Code, and must terminate upon attainment of the authorized objective, or in any event, at the end of fifteen (15) days (excluding Sundays) from the date of this Order.

PROVIDING ALSO, that electronic surveillance of the oral communications of the above-named subjects shall occur at the above-described premises only where it has been determined that at least one of the above-named subjects is at the above-described premises.

PROVIDING ALSO, that Fred F. Barlow shall provide the Court with a report on the fifth and tenth days following the date of this Order showing what progress has been made toward achievements of the authorized objective and the need for continued interception.

Dated

April 12 1973  
V. 30 P. 711

*Fred F. Barlow*  
UNITED STATES DISTRICT JUDGE  
*W. S. Heston*  
Eastern District of New York



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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IN THE MATTER OF THE APPLICATION  
OF THE UNITED STATES FOR AN ORDER  
AUTHORIZING THE INTERCEPTION OF  
ORAL COMMUNICATIONS.  
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AFFIDAVIT

STATE OF NEW YORK

COUNTY OF KINGS

EASTERN DISTRICT OF NEW YORK ss:

CHARLIE J. PARSONS, Special Agent, Federal Bureau of  
Investigation, New York, being duly sworn states:

I am an "investigative law enforcement officer..." of the  
United States within the meaning of Section 2510(7) of Title 18, United  
States Code---that is, an officer of the United States who is empowered  
by law to conduct investigations of and to make arrests for offenses  
enumerated in Section 2516 of Title 18, United States Code.

I make this affidavit in support of an application which seeks  
authorization to intercept oral communications concerning offenses involving  
violations of Title 18, United States Code, Section 1955, and a conspiracy  
to violate said statutes in violation of Title 18 United States Code,  
Section 371, which have been and are being committed by JAMES VINCENT NAPOLI,  
also known as Jimmy Napp; JAMES NAPOLI, Jr. also known as Lefty and Jimmy Jr.;  
MARTIN CASELLA also known as Marty and Motts; ANTHONY DI MATTEO also known  
as Tony Apples; MICHAEL DE LUCA also known as Mikey Jr.; and RICHARD EASCETTA  
also known as Shotgun; and others as yet unknown.

I have supervised the conduct of the investigation of this  
offense and, as a result of my personal participation in that investigation  
and of reports made to me by agents under my direction,



I am familiar with all the circumstances of the offenses. On the basis of that familiarity, I allege the facts contained in the numbered paragraphs below to show that:

a. There is probable cause for belief that JAMES VINCENT NAPOLI also known as Jimmy Napp; JAMES NAPOLI, Jr. also known as Lefty and Jimmy Jr.; MARTIN CASELLA also known as Marty and Motts; ANTHONY DI MATTEO also known as Tony Apples; MICHAEL DE LUCA also known as Mikey, Jr., RICHARD BASCETTA also known as Shotgun; and others as yet unknown have committed, and are committing, will continue to commit and will continue to conspire to commit offenses in-volving the conducting, financing, managing, supervising, directing or owning of all or part of an illegal gambling business in violation of Article 225, Section 225.0 through 255.40, of the New York State Revised Penal Law, and also in violation of Sections 1955 and 371, of Title 18, United States Code.

b. There is probable cause for belief that communications concerning those offenses will be obtained through the interception of oral communications at the Highway Lounge, 362 Metropolitan Avenue, Brooklyn, New York.

c. Normal investigative procedures have been tried and reasonably appear unlikely to succeed if tried further.

No previous applications are known to have been made to any judge for authorization to intercept or for approval of interception of wire or oral communications involving any of the persons, facilities or places specified herein except the following:

On April 10, 1970, the Honorable ANTHONY AUGELLI, United States District Judge, District of New Jersey, signed an order authorizing the interception of wire communications of MARTIN CASELLA, HENRY RADZIEWICZ and others to and from the telephones numbered 201-659-9260 and 201-659-9877, located at Marty's Mile Square Tavern, 615 1st Street, Hoboken, New Jersey.

On May 18, 1970, Honorable JACOB B. MISHLER, United States District Judge, Eastern District of New York, signed an Order authorizing the interception of wire communications of JAMES V. NAPOLI, JAMES VINCENT (sic.) NAPOLI, Jr., and others



to and from the telephone numbered 212-384-9615, located at the Highway Lounge, 362 Metropolitan Avenue, Brooklyn, New York; on the same date, the Honorable THOMAS F. CROAKE, United States District Judge for the Southern District of New York, signed an Order authorizing the interception of wire communications of JAMES VINCENT NAPOLI, JAMES VINCENT (sic) NAPOLI Jr. and others then unknown to and from the telephone numbered 212-889-7679, located at 216 East 31st Street, New York, New York (NAPOLI, Sr.'s residence).

On December 8, 1972, the Honorable ORRIN J. JUDD, <sup>12/8/72 Tap</sup> United States District Judge, Eastern District of New York, signed an Order authorizing the interception of oral communications of BARRY RUSSO, ANTHONY DI MATTEO also known as Tony Apples (referred to in the application as PASOUALE ROSSETTI) and a male known only as JOHN DOE D, at Apartment 309, 8-15 27th Street, Astoria, Queens, New York.

On January 15, 1973, the Honorable JACK B. WEINSTEIN <sup>1/15/73 Buy</sup> United States District Judge, Eastern District of New York, signed an Order authorizing the interception of oral communications of BARRY RUSSO, ANTHONY DI MATTEO, also known as Tony Apples, JOSEPH SIMONELLI, also known as Joe Black, ROCCO RICCARDI, also known as Rocky, PHYLLIS ENGERT and an individual referred to herein as JOHN DOE D at the above premises.

On February 20, 1973, the Honorable GEORGE POSLING, <sup>2/20/73 Tap</sup> United States District Judge, Eastern District of New York, signed <sup>309</sup> an order authorizing the interception of wire communications to <sup>161-20</sup> and from the telephones bearing numbers 212-932-2708, located at Apartment 309, 8-15 27th Avenue, Astoria, Queens, New York, and 212-835-1163, located at 161-20 91st Street, Howard Beach, Queens, New York, in connection with the investigation into possible



violations of Title 18, United States Code, Sections 1955 and 371 by JAMES NAPOLI, Jr. also known as Lefty, BARI MASCITTI, ANTHONY DI MATTEO also known as Tony Apples, EUGENE SCAPIDI also known as Bo, ROCCO RICCARDI also known as Rocky, ROBERT VOULO, JOSEPH SIMONELLI also known as Joe Black, a person answering the telephone numbered 894-9195 and others as yet unknown.

The facts alleged in the May 18, 1970 affidavit of Special Agent WILLIAM J. CANALEZ and in my affidavits dated May 1, December 8 and 20, 1972, January 15, 1973, January 18, 1973 and February 20, 1973 are incorporated herein by this reference and copies of the said affidavits are annexed as Exhibits A, B, C, D, E, F and G.

FACTS SHOWING PROBABLE CAUSE

1. Hereafter, unless specified otherwise, all telephone numbers are in the (212) area, and all addresses are streets in Brooklyn, New York. Also, all excerpted conversations are substantially verbatim, but are not to be construed as exact.

2. The facts contained herein, and in the incorporated affidavits, Exhibits A-G, have resulted from an investigation of the alleged JAMES V. "Jimmy Napp" NAPOLI gambling operation, which investigation has been in progress for over two years, in an attempt to gain sufficient prosecutable evidence against the uppermost members of this operation and their co-conspirators.

This affidavit's facts are based primarily on visual and electronic surveillance and multiple informant information.

3. Pursuant to the Orders of Judge JUDD (December 8, 1972) and Judge WEINSTEIN (January 15, 1973) oral conversations of BARI MASCITTI also known as Barry Russo, ANTHONY DI MATTEO also known as Tony Apples (referred to sometimes in prior affidavits as PASQUALE JOSEPH ROSSETTI), PHYLLIS ENGERT and a female known only as COLLETE, were intercepted at Apartment 309, 8-15 27th Avenue,



12/9/72  
1/3/73  
Queens, New York. From the content of these intercepted conversations during the periods of December 9 to December 22, 1972, and January 15, 1973, to January 31, 1973 (excluding Sundays) it is apparent that MASCITTI and DI MATTEO are "bank-workers" in a large scale policy gambling operation. Their conversations with each other are replete with gambling references such as "work", "overlooks", "overcharges", "claims", "hits" etc.

Electronic Surveillance

The following are all excerpts from conversations intercepted pursuant to the Orders of Judge JUDD and WINSTEIN as noted above:

4. At 4:01 pm, January 30, 1973:

MASCITTI: Who wants me? I'm here. Who wants me? FBI.

(Both laugh). I want you to say that when they knock the door up someday. I'm here, who wants me? FBI. I want to be able to talk about it when we get out... (other conversation, then):

I didn't see anything today, but I have to keep my eyes open because see they can't take you right away, they keep you under surveillance a certain amount of days, thirty days (inaudible)... (other conversation, then):

They like to do it up right so they take so much time ah on it by the time they're ready, you've already gone...

5a. On December 9, 1972, ANTHONY DI MATTEO stated to BARI MASCITTI: JIMMY called you.

b. On December 19, 1972, after a telephone conversation with the individual referred to as "Joe Black", DI MATTEO stated:

JOE BLACK says I had to see JIMMY NAPP or something else, he says. I didn't do nothing wrong... Why I did? I betcha he's mad at me now...

c. On December 20, 1972, the following conversation was intercepted:



DI MATTEO: I went down to see JIMMY NAPP... (inaudible)

MASCITTI: Yeah.

DI MATTEO: ...be over here tonight... (inaudible)...

be careful coming back tonight.

MASCITTI: What time you say you have to be there?

Six o'clock ? 6:30? (See paragraph 2a. (16) of my affidavit of January 15, 1973).

d. On December 21, 1972, the following conversation was intercepted:

DI MATTEO: You was schooled...last night you was in the same thing.

MASCITTI: Who schooled me last night?

DI MATTEO: JIMMY NAPP told you to know what a dollar is, watch yourself.

MASCITTI: I watched it... (inaudible)...

e. On January 15, 1973, conversations monitored included conversation between MASCITTI and DI MATTEO in which MASCITTI referred to DI MATTEO as a "stool pigeon".

The following are three excerpts from this conversation:

1. MASCITTI: You ain't alone. I'll stop getting ulcers from "P" work when your twenty weeks are up, I'm gonna put in a hollar about you too.

DI MATTEO: Give them a hollar.

2. MASCITTI: What did you have for me today, you get the finest books, because you can't (inaudible).

DI MATTEO: You don't like it, go see JIMMY NAPOLI.

MASCITTI: You can't, six thousand dollars you owe and when it's done and you're done paying him, then I can see him.

3. MASCITTI: I don't have to ride nobody. I'm telling you call JIMMY and go see the "Zube" tonight.



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On January 19, 1973, a very indistinct conversation was intercepted between MASCITTI and DI MATTEO apparently discussing salaries of a bank worker. DI MATTEO then stated... go see JIMMY NAPP... (inaudible)...ask him what he wants.

f. On January 30, 1973, at 3:40 pm, among other conversations, the following was intercepted:

DI MATTEO: You're leaving Junior.

MASCITTI: He'll put you to work... (inaudible)

DI MATTEO: I said to "Me-Too" I said you ought to come down and work for me, I said, with me, you know. He said nobody's my boss but JIMMY NAPP, nobody can fire me or move me. I said, "not even MIKEY, Jr."? He said no, not even MIKEY, Jr. nobody. He said I'll bet you five-hundred dollars; he wanted to bet me.

MASCITTI: He's right.

DI MATTEO: In other words your father...

MASCITTI interjects: Don't bet him, he's right.

DI MATTEO: Your father.

MASCITTI interjects: MIKEY's not his boss.

DI MATTEO: Yeah, but can't your father, he might get him fired or.

MASCITTI: If he wanted to try real hard to get him fired, he could get him fired.

DI MATTEO: Or moved. He could get him moved. Don't tell me he can't.

6. a. On December 11, 1972, at 2:55pm:

DI MATTEO: MIKEY's going to see him tomorrow. You know...about the money...

BARI MASCITTI: ...he gives everybody big money once in a while. What's the matter with you? "Feets" was with him all those years doing the work. Doing his work. "Feets" just transferred over. MIKEY gave him that 7,000, how long ago?...



b. At 3:01 pm:

DI MATTEO: I seen MIKEY. He was bullshit. He nearly got murdered. Saturday, Sunday, Monday.

c. At 3:06pm:

MASCITTI: We're doing better than last year. Who do I look like, MIKEY, Jr.?

7.a. On December 14, 1972, at 2:51 pm:

MASCITTI: ...497. MIKEY told him 497.

b. At 2:55 pm:

MASCITTI: BOBBY says it shouldn't be too bad.

DI MATTEO: I know it shouldn't be too bad. Did you tell him what we set for next week?

MASCITTI: What's for next week?

DI MATTEO: ...what your father said

MASCITTI: Fuck my father.

DI MATTEO: He don't know what's going on anyway.

MASCITTI: What does he know about this?

DI MATTEO: All he knows is to collect.

c. At 5:26pm:

DI MATTEO: Your old man says he'll give me my bread during the week. But he didn't give me it yet. So I ain't gonna ask him...

8a. On December 19, 1972, MASCITTI stated to DI MATTEO as follows:

...tell him, listen MIKEY, I need the bread. Tell him just like this if you wanna learn how to do it. Believe me. I've been doing it to him for all my life. Listen, MIKE...but I need at least a thousand, MIKEY, and I don't want to borrow it...

9. On December 21, 1972, MASCITTI stated to DI MATTEO in an intercepted conversation as follows:



"Don't you understand that I gotta get, I get everybody's average. What I get from MIKEY on Sunday is what I get from you. JOE BLACK, huh, MIKEY, Jr. ROCKY..." (see paragraph 29 of this affidavit relating to physical surveillance of MASCITTI on a Sunday).

10. On January 20, 1973, DI MATTEO, in an intercepted conversation related his version of a conversation held the prior evening with MICHAEL DE LUCA and JAMES NAPOLI, Jr. (see paragraph 9a. of my affidavit dated February 20, 1972).

11. On January 29, 1973:

a. At 4:05pm:

MASCITTI: You take no nap. You keep working you.  
(Inaudible)...I told my father yesterday about (inaudible)...

b. At 4:18:

DI MATTEO: Four branches I do already, plus yours.  
Four. You want to tell your father.

MASCITTI: You'd better put in for a raise.

DI MATTEO: Four (inaudible)...

MASCITTI: (inaudible)...ask him for a raise.

DI MATTEO: Do that work. 25 thousand.

MASCITTI: My father almost threw me off this work Saturday. You know that, COLLETTE. My father almost pulled my outta here.

12. a. On January 30, 1972, at 3:47 pm:

MASCITTI: You know if MIKEY, Jr. don't watch out I'm going to quit this side and go work on BOBBY's side...

b. At 3:53:

MASCITTI: BOBBY got the biggest fuckin kick out of what I told MIKEY. I told MIKEY...APPLES, BOBBY almost rolled on the floor when I told him that I told my father what he said.



13. On January 31, 1973, at 3:08 pm:

DI MATTEO: This is the story, they hate your guts cause your father is the boss and they don't want you to have anything.

14.a. On December 19, 1973, MASCITTI was intercepted in a conversation at 6:41 pm as follows:

That LEFTY, he made me bet Iowa State last night... he fucked me up, that fucking LEFTY.

14. b. On January 20, 1973, DI MATTEO was intercepted relating his version of a conversation the prior night with MICHAEL DE LUCA and JAMES NAPOLI, Jr. (see paragraph 9.a. of my affidavit of February 20, 1973).

15. On January 27, 1973, DI MATTEO was intercepted in a conversation with BARI MASCITTI in which DI MATTEO stated: I gotta go to the trotters to meet Shotgun tonight...(inaudible).

16. On January 18, 1973, at 3:35 pm:

DI MATTEO: Shotgun hit the number...(inaudible) (and a little later) That number come out a couple times, two four six eight. That's Shotgun's number too.

Informant Data

17. a. Confidential informant number one (also referred to as confidential number one in exhibits A, B, E, and G) has furnished reliable information for over three years, leading to two convictions and eight indictments of individuals in the investigation of this particular case. In addition, in another case he has furnished information along with other informants leading to the arrests of 47 individuals. In addition to the information previously furnished by informant which is set forth in Exhibits A, B, E, and G, source advised affiant as early as June 30, 1972, that an individual known to him as "Tony Apples" was one of NAPP's men and was working in a "bank". The informant



gave a description of "Tony Apples" and subsequent investigation determined this individual to be ANTHONY DI MATTEO.

20 X On November 27, 1972, this informant advised affiant that a photograph shown to him of MICHAEL DE LUCA (New York City Police Department Number B517-077) was the individual he had referred to previously as MIKEY Jr. The informant characterized DE LUCA as the money-handler and trouble-shooter for the NAPOLI gambling operation, who supervises at least some of the "bank-workers" along with JAMES "LEFTY" NAPOLI, Jr. As a result, contact between people like "Tony Apples" and JIMMY NAPP is kept to a minimum. Informant advised affiant that NAPOLI "sits-down" with MIKEY, Jr. at least twice a week, either at Crisci's, Bamonte's or at the Highway Lounge. The informant stated that these meetings have been going on for years and are often on Tuesday. The informant knows the above to be true based on conversations with and observation of MICHAEL DE LUCA over many years and as recently as November 20, 1972.

b. On March 28, 1973, this informant was queried by affiant concerning activities at the Highway Lounge, and informant advised that, in spite of activities by law enforcement agencies, the Highway Lounge continues to be the headquarters and meeting place for NAPOLI and others in the operation, based on informant's personal observations during the week of March 19, 1973.

18.a. Informant number 2 has furnished reliable information for over two years to the Federal Bureau of Investigation. He has furnished information in the past that has directly led to the arrest of over seven persons for federal gambling violations and the execution of over ten search warrants wherein gambling records were seized. Information furnished by this source has been fully substantiated by independent investigation.

b. As recently as March 26, 1973, informant advised Special Agent ROBERT B. LIESEGANG, who in turn advised affiant that through personal contact with PETER RENDA, he has learned that RENDA is a controller for JIMMY NAPP's gambling operation. During his conversations during the week of March 19, 1973, with RENDA, RENDA



alluded to the fact that as a controller he has to solve any problems concerning his runners, pickup men, and others arising out of policy bets. Should RENDA be unable to solve the problem, he said, he would take it up with either MIKE DE LUCA also known as Mikey, Jr. or Lefty whose true name is JAMES NAPOLI, Jr. The informant has observed and overheard RENDA discussing these problems with MIKEY, Jr. at Bamontes Restaurant and with LEFTY at the Highway Lounge. Informant number two has overheard conversations of RENDA and MIKEY, Jr. that indicate certain decisions concerning the day to day operations of the gambling combine must be taken up with JIMMY NAPP himself. The above conversations and observations all occurred during the week of March 19, 1973.

c. On numerous occasions during the month of March, 1973, source has observed NAPP at the Highway Lounge during the afternoon hours. He has additionally observed NAPP as recently as March 23, 1973, at the Highway Lounge meet with persons whom he personally knows to be involved in this gambling operation.

19. Affiant has been advised by Special Agent JAMES F. MITCHELL, Federal Bureau of Investigation, that on February 27, 1973, a confidential informant number three, who has supplied reliable information on seven occasions regarding "pick-up" locations which has been corroborated in each instance by physical surveillance and who furnished information leading to the successful execution of search warrants in this investigation, advised him that source's superior, who is directly under JIMMY NAPP, instructed him on February 26, 1973, that if an emergency arose, such as the "pick-up man" not showing up to collect the policy slips on a given day, the informant was to deliver the "work" to the Highway Lounge in Williamsburg, Brooklyn.

20. Informant number 4 has furnished reliable information to the Federal Bureau of Investigation for over three years, which information has been confirmed and corroborated by independent investigation. Information furnished by this source has resulted in



two convictions and a recovery in excess of \$1,000.00. On March 26, 1973, informant number 4 advised Special Agent PHILIP M. URICK who in turn advised affiant that he had been in Marty's Mile Square Tavern in Hoboken, New Jersey, frequently in the last few months and has overheard MARTIN A. CASELLA, whom he knows, talking to individuals about the collection of various gambling debts and, during the recent past, overheard CASELLA and HENRY RADZIEWICZ discussing amounts of money and "hits" on the numbers. He has learned from CASELLA that he, CASELLA, spends a lot of time in Brooklyn these days meeting JIMMY NAPP.

21. a. On March 22, 1973, informant number 5, who is a gambler and has furnished reliable information to the Federal Bureau of Investigation since 1965, which has resulted in over seven convictions and recoveries in excess of \$10,000 and assisted in obtaining two wire taps advised Special Agent JOHN A. LELWICA, who in turn advised affiant that he was in the Highway Lounge in Brooklyn, during the week of March 11, 1973, and personally spoke with JIMMY NAPP. He heard NAPP discussing with others the difficulty of handling the numbers action due to the heat being placed on him by the "Cop". He has previously observed two of the persons talking with NAPP in New Jersey and feels certain that they are part of NAPP's gambling operation. During that week, informant number 5 observed NAPP for over two hours and most of this time NAPP was engaged in conversation relating to collections, proceeds and various people engaged in his gambling operation. The names BOBBY, JOE and JIMMY were frequently mentioned.

He further advised that in the recent past he has observed MARTY CASELLA also known as Motts and a man known to him as "Henry the Pollack" in contact with NAPP at the Highway Lounge.

b. CASELLA is known to informant number 5 through personal contact to be the owner of Marty's Mile Square Tavern in



Hoboken, New Jersey, and CASELLA also controls the gambling action for Hoboken and recently Jersey City for LOUIS A. MANNA, also known as BOBBY MANNA, who is currently in jail.

In the past informant number 5 has learned from CASELLA that JIMMY NAPP has some control of MANNA's and CASELLA's gambling operation in New Jersey.

22. On March 26, 1973, informant number 6 who has supplied reliable information which has identified over 40 gambling operators in the New Jersey area, for over a year, and who has also furnished information on which were based two search warrants in gambling raids wherein bookmaking records and gambling paraphernalia were seized, advised Special Agent DONALD A. WADSWORTH who subsequently advised affiant that during a recent conversation with MARTIN CASELLA, CASELLA related that BOBBY MANNA had surrendered some of his authority to JOHN DI GILIO, specifically in the area of swag (stolen property) and loansharking operations. Informant #6 advised that CASELLA still answers directly to JIMMY NAPP for gambling interests in Hudson County, New Jersey, as was previously the case when MANNA was out of prison. He stated that he personally knows that CASELLA travels to New York to meet with JIMMY NAPP or his representative on a weekly basis and that the time of travel varies normally from late Sunday to late Tuesday evening each week. The above information is based on a conversation which took place during the week of March 19, 1973.

23. On March 23, 1973, informant number 7, who is a gambler and who has on 50 different occasions in the past year furnished reliable information which was later corroborated by independent Federal Bureau of Investigation investigation and whose information has resulted in more than 10 gambling arrests and the installation of more than four successful wire taps advised Special Agent GEORGE LITZENBERG, who in turn advised affiant that he learned through weekly contact, the most recent of which was during the week of March 19, 1973, with FRED COLLETTA, a known Hudson County gambler, that MARTIN CASELLA, also known as Motts, and Henry



Radziewicz, also known as Henry the Pollack, are running BOBBY MANNA's gambling operation in Hudson County, New Jersey, since MANNA went to jail. In past years, MANNA had directly controlled his own gambling operation but since he has gone to jail, CASELLA and RADZIEWICZ have been in control of the operation.

Informant number 7 advised that JIMMY NAPP of Brooklyn has a large piece of Hudson County gambling and exerts a great deal of influence on CASELLA both in the past and at the present time.

Informant number 7 also learned, through the above-cited conversation, that CASELLA or RADZIEWICZ frequently go from New Jersey to New York to settle up with NAPP at a location unknown to source.

24. On March 23, 1973, informant number 8, who has furnished reliable information on over ten occasions during the past year which has been verified by independent Federal Bureau of Investigation investigation and whose information has resulted in the arrest of more than three subjects, advised Special Agent ANTHONY VACCARINO, who in turn advised affiant that MARTY CASELLA still turns in a major part of his gambling operation to BOBBY MANNA and JIMMY NAPP. CASELLA settles up on a weekly basis with JIMMY NAPP in New York and also with HENRY RADZIEWICZ, who is one of MANNA's top men. RADZIEWICZ is also responsible for handling a good part of the "Ice Money" in New Jersey, for MANNA's large interstate gambling operation. Source knows the above information to be true through his continuing weekly conversation with TOMMY TREVELISE, a well-known bookmaker in Union City, New Jersey, the most recent conversation having occurred during the week of March 19, 1973.

#### VISUAL SURVEILLANCES

25. On those occasions during the course of this investigation in which NAPOLI Sr. has been surveilled on a continuous basis (such as the period from January 15 to January 25, 1973) and from spot checks during the past two years, a pattern has been



established. NAPOLI normally departs his residence around noon and usually proceeds directly to the Highway Lounge, 362 Metropolitan Avenue and remains there until approximately 5:30pm to 6:00 pm. He then departs, going either to his residence or to various restaurants such as Bamonte's Restaurant, 32 Withers Street or Crisci's Restaurant, 593 Lorimer Street, Brooklyn, New York. Also observed on practically a daily basis at the Highway Lounge, are JAMES NAPOLI, Jr. also known as "Lefty" and RICHARD BASCETTA also known as "Shotgun". Observations indicate that there is little legitimate business at the Highway Lounge, but that it is used primarily as a meeting place for NAPOLI and others as has been indicated previously by informants. (See paragraphs 17 and 18 of this affidavit).

a. On April 3, 1973, and on prior occasions, affiant has observed the premises known as the Highway Lounge, 362 Metropolitan Avenue, Brooklyn, New York. These observations determined that the Highway Lounge is located on the street level of a three-story frame building with a brick facade on the southeast corner of Havemeyer Street and Metropolitan Avenue. The main entrance to the Highway Lounge is on the above corner and a side entrance is located on Metropolitan Avenue approximately 45 feet east of the intersection. The interior of the lounge consists of a bar area (roughly triangular shaped, 70 feet by 70 feet by 70 feet) a kitchen area (approximately 30 feet long and 17 feet wide) and a back room (approximately 50 feet long and 25 feet wide). These areas are all contiguous and collectively make up the Highway Lounge proper.



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26. On March 22, 1973, NAPOLI exited the Highway Lounge at 6:20 P.M. and departed in his car; ten minutes later, RICHARD BASCETTA departed the Highway Lounge, after turning off the window lights and locking the door. On March 26, 1973, NAPOLI, SR., departed the Highway Lounge at 6:11 P.M.; "Lefty" NAPOLI departed at 6:20 P.M., and RICHARD BASCETTA departed at 6:24 P.M. after turning off the window lights. On March 28, 1973, NAPOLI, SR. departed the Highway Lounge at 6:31 P.M., and departed the area; at 7:00 P.M. BASCETTA turned the lights off, locked the door, and departed the area.

27. As stated in my affidavit of January 15, 1973, (paragraph 2 (a) 16) ANTHONY DI MATTEO was intercepted on December 20, 1972, relating to BARI MASCITTI that he (DI MATTEO) had a meeting with "Jimmy Napp" that evening. (See paragraph 5 of my January 15 affidavit wherein agents under the direction of affiant observed DI MATTEO, NAPOLI, SR., "Lefty" NAPOLI, RICHARD BASCETTA, also known as Shotgun, and MASCITTI meet at the Highway Lounge.)

28. On January 23, 1973, at 6:25 P.M. affiant and agents working under his direction observed BARI MASCITTI and ANTHONY DI MATTEO depart the premises being monitored by court order, 8-15 27th Avenue, Queens, New York, and proceed to Crisci's Restaurant in the Williamsburg section of Brooklyn. Both entered the restaurant. They were observed standing alongside "Lefty" NAPOLI, JR. at the bar. At 6:55 P.M. MARTY CASELLA and HENRY RADZIEWICZ were observed to enter 216 East 31st Street, New York City, after being met by JAMES V. NAPOLI at the door. Two shopping bags were taken into 216 East 31st Street which were removed from the trunk of their car. At 7:35 P.M. NAPOLI, JR. entered 216 East 31st Street carrying a cream colored package, approximately 12 inches by 10 inches in size. At 8:27 P.M. NAPOLI, JR. exited 216 East 31st Street, carrying a transparent shopping bag containing a white box and departed the area. At 8:35 P.M. RADZIEWICZ and



CASSELLA exited 216 East 31st Street and departed the area.

29. On Sunday, January 21, 1973, BARI MASCITTI was observed to enter the residence at 21-06 Hoyt Avenue, Queens, New York at 4:10 P.M. and to depart at 5:45 P.M. MICHAEL DE LUCA was observed to enter this residence at 3:15 P.M. and did not depart until after MASCITTI.

This surveillance reflects the intercepted conversation of December 21, 1972, of BARI MASCITTI, wherein he talked about meeting "Mickey, Jr." on Sundays. (See paragraph 9 of this affidavit.)

30. On Tuesday, February 27, 1973, at 4:45 P.M. MICHAEL DE LUCA, also known as "Mikey, Jr." was observed standing at the end of the bar in the Highway Lounge, alongside JAMES V. NAPOLI, SR. No other persons were observed in the bar area at this time. Approximately fifteen minutes later JAMES NAPOLI, JR., also known as "Lefty", was observed seated at a table in the bar room with DE LUCA. During the period from 8:15 P.M. to 11:45 P.M. PETER GUIDO; JOSEPH SIMONELLI, also known as Joe Black; MICHAEL DE LUCA, also known as Mikey, Jr.; ALLIE NOCE, BARI MASCITTI, JAMES NAPOLI, JR., also known as Lefty, were observed sitting, talking, and/or eating with NAPOLI, SR. at Crisci's Restaurant, 593 Lorimer Street, Brooklyn, New York. All the above individuals have been observed in NAPOLI's presence at the Highway Lounge, on prior occasions. MASCITTI had been observed with ROBERT VOULO earlier in the evening (at 9:10 P.M.) (See my affidavit of February 20, 1973.)

31. On Tuesday, March 6, 1973, MICHAEL DE LUCA was observed standing alongside NAPOLI, SR. in the Highway Lounge. Also in the bar were RICHARD BASCETTA, also known as "Shotgun" and JAMES "Lefty" NAPOLI. DE LUCA departed the Highway Lounge at 5:45 P.M. and NAPOLI, SR. departed fifteen minutes later and proceeded to his residence in Manhattan.



32. On Tuesday, March 27, 1973, MICHAEL DE LUCA was observed in the Highway Lounge. The only other individuals observed in the bar at that time were RICHARD BASCETTA, JAMES NAPOLI, SR. and JAMES "Lefty" NAPOLI, JR.

33. Oral communications intercepted at the policy "office" at 8-15 27th Avenue, Queens, New York (see paragraph 1 (a) (15) of my affidavit of January 15, 1973) indicate ROCCO RICCARDI and JOSEPH SIMONELLI to be working in a separate "office". On January 25, 1973, RICCARDI and SIMONELLI departed 621 Metropolitan Avenue (believed to be the location of the "office"). Twenty minutes later these two individuals were observed with JAMES "Lefty" NAPOLI at Bamonte's Restaurant, 32 Withers Street.

34. On March 15, 1973, ANTHONY DI MATTEO and RICHARD BASCETTA, also known as Shotgun, were observed by affiant to arrive separately at Bamonte's Restaurant, and both subsequently departed in BASCETTA's car. At 7:15 P.M. they arrived at the Highway Lounge which was apparently closed and entered, with BASCETTA utilizing a key. DI MATTEO was carrying a small brown bag, and both looked up and down the street before they entered. They remained inside for approximately ten minutes, and then departed the area in BASCETTA's car.

35. On January 3, 1973, at 6:20 P.M. NAPOLI, SR. was observed with and talking to MARTIN CASELLA and HENRY RADZIEWICZ inside the Highway Lounge.

At 6:26 P.M. NAPOLI left in his car, followed by CASELLA and RADZIEWICZ in a Cadillac bearing New York license UEI 312. A few moments later, RICHARD BASCETTA turned the lights out and locked the door to the Highway Lounge and departed on foot.

36. On January 23, 1973, HENRY RADZIEWICZ and MARTY CASELLA were observed to meet with NAPOLI, SR. (See paragraph 28.)



36a. On Saturday, February 17, 1973, at 4:25 P.M.

HENRY RADZIEWICZ and an individual believed to be MARTIN CASELLA were observed to exit the Highway Lounge and enter a Cadillac bearing New Jersey license plates UEI 312. They departed the area as JAMES V. NAPOLI, SR. stood in the doorway.

37. On March 7, 1973, HENRY RADZIEWICZ, MARTIN CASELLA, JAMES "Lefty" NAPOLI, and NAPOLI, SR. were observed inside the Highway Lounge. At 5:05 P.M. RADZIEWICZ and CASELLA departed in a car bearing New Jersey license UEI 312 and proceeded to the Holland Tunnel into New Jersey.

NEED FOR INTERCEPTION

38. My experience and the experience of other agents has shown that gambling raids and searches of gamblers and their gambling establishments have not, in the past, resulted in the gathering of physical or other evidence to prove all elements of the offenses against all involved within purview of Title 18, United States Code, Section 1955. I have found through my experiences and the experiences of other Special Agents who have worked on gambling cases, that gamblers frequently do not keep permanent records. If such records have been maintained, gamblers immediately, prior to or during a physical search, destroy or attempt to destroy them. Additionally, records that have been seized in the course of this investigation (see my affidavits of May 1 and December 8, 1972) have not been sufficient to establish all elements of this Federal gambling offense against the managers and directors of it because such records have been of little or no significance without further evidence of the activities and nature of the operation's higher echelons.

39. Affiant knows from cumulative experience described herein and in Exhibits A-G that the activities and conduct of ANTHONY DI MATTEO, also known as "Tony Apples" and BARI MASCITTI are entirely consistent with the operation of a "policy bank" or office. Policy bank workers play an integral part in the management of illegal gambling businesses inasmuch as they are



## Hi Way Application A297

responsible for tallying and confirming bets and winning numbers on a daily basis in order for "hits" or winning wagers to be paid the following day. Bank workers are trusted employees, and they are the main link in the chain of connection between the lower echelon runners, controllers, and pick-up men, with the upper echelon figures who do not physically participate in the daily operation, but who actually manage, supervise, finance, own and direct large scale policy operations and profit from the revenue generated by them. I know from my experience that this large scale illegal policy operation utilizes a number of banks or offices in different locations with different employees. If one bank is discovered by law enforcement officials, its detection does not disrupt the entire operation. Experience has also demonstrated that searches and seizures in one location and arrest of employees in the lower echelon is often just a temporary disruptive influence, solved by merely replacing employees and setting up in a new location, and that this relocation is done regularly to prevent such searches and seizures (see paragraph 4).

40. Expert analysis by the FBI Laboratory Gambling Section of evidence seized in banks of this operation have established that one bank may handle in excess of \$10,000,000.00 in annual wagers. Allowing for adequate compensation for runners, controllers, pick-up men, and bank and office workers, the additional gambling revenues have been impossible to trace through the limited investigative technique of physical surveillance during 1971-1973. In addition, this particular gambling operation is designed so that all monies are maintained separately from the betting records. Previous searches conducted on banks in this operation by agents working under affiant's direction have yielded gambling records, but no monies.



41a. . Conversely, my cumulative experience has shown that electronic surveillance of JAMES V. NAPOLI, SR. and his higher echelon operatives, without the extensive investigation shown by this affidavit and exhibits A-G, would not provide sufficient prosecutable evidence of the full extent of this gambling operation. An example is the electronic surveillance pursuant to the two orders dated May 18, 1970.

b. Also, conversations monitored during the course of this electronic surveillance yielded insufficient evidence to prosecute NAPOLI. A large number of the calls intercepted were simply instructions for this person or that person to come to the Hi-Way Lounge because NAPOLI, SR. wanted to see them. It is felt that this reluctance to discuss matters on the telephone stemmed from knowledge or at least suspicion that these conversations were being monitored as shown by the conversations set forth below. Special Agents WILLIAM T. GULBICKI and CHRISTOPHER SCATURO have advised affiant that on or about June 3, 1970, when they removed the monitoring equipment from a nearby location, the wires running from the Hi-Way Lounge to the monitoring equipment had been forcibly severed.

c. At 4:38 PM, on May 18, 1970, the very first conversation monitored under Judge MISHLER's order on telephone number 384-4615 was from an unknown male to "Sally" (believed to be SALVATORE VIGORITO) as follows:

Caller C

Receiver R

C: There's two guys in a blue suburban parked here



R: OK stay there and play dead.

At 4:43 PM, a conversation was intercepted between a female (believed to be Mrs. JAMES V. NAPOLI, SR.) and a male (believed to be JOHN LOTIERZO, also known as "Mixed Up Junior") as follows:

R: Hello highway

C: Jimmy Napp, please

R: Who?

C: Jimmy Napp

R: Who is this?

C: Hello Junior, (laugh)

R: Hey, PJ

C: It didn't sound like you either

R: It didn't sound like you, they must have something on the phone

C: I think so, it's called an echo...thats (inaudible) now we know for sure...

d. During the period of the electronic surveillance (May 18, 1970 through June 2, 1970) most of the conversations intercepted were in cautious and circumspect language, utilizing such phrases as "the fellow he told you about" or "the guy I was with".

e. On May 20, 1970, the following conversation from telephone number 384-9615 was intercepted pursuant to Judge MISHLER's order:

Receiver: Hello, Damonte's

NAPOLI: Hello, is Mikey Junior there

Receiver: No, he was here, but he left

NAPOLI: He left

Receiver: Yes, Jim

NAPOLI: Okay



ication A300

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, JR., MARTIN

RADZIEWICZ, MICHAEL

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# Hi Way Application A301

required quantum of evidence sufficient to prove  
doubt that JAMES VINCENT NAPOLI, also known as  
NAPOLI, JR., also known as Lefty, and Jimmy Jr.;  
known as Marty and Motts; ANTHONY DI MATTEO, also  
MICHAEL DE LUCA, also known as Mikey Jr.; and  
known as Shotgyn, and others as yet unknown are  
managing, supervising, directing or owning all or  
gambling business in violation of Title 18, United States  
and a conspiracy to commit such acts, in violation of  
Federal Communications Code, Section 371, is to intercept all communications  
at the Hi-Way Lounge, located at 362 Metropolitan Avenue,  
such as the gambling operation described herein is  
involving criminal conspiracy, the evidence sought through  
interception of oral communications at the subject premises  
obtained on a continuing basis on several days succeeding  
the communications which are the objective of this ap-  
plication, it is requested that these interceptions not terminate  
until communications are first obtained, but continue until inter-  
identities of the confederates of, JAMES VINCENT NAPOLI,  
Napp; JAMES NAPOLI, JR., also known as LEFTY and Jimmy Jr.;  
known as MARTY and Motts; ANTHONY DE MATTEO, also known  
MICHAEL DE LUCA, also known as Mikey Jr.; and RICHARD RASCETTA,  
and others as yet unknown, their other places of op-  
eration of the conspiracy involved therein, of for a period  
of, excluding Sundays (the day on which these premises are  
in operation) from the date of the order, whichever is



Wherefore, I submit that the information supplied by Exhibits A-G incorporated herein, surveillances, communications which have previously been intercepted and informant information proved sufficient facts to establish probable cause that JAMES VINCENT NAPOLI, also known as Jimmy Napp; JAMES NAPOLI, JR., also known as Lefty and Jimmy Jr., MARTIN CASELLA, also known as Marty and Motts; ANTHONY DI MATTEO, also known as Tony Apples; MICHAEL DE LUCA, also known as Mikey, Jr.; and RICHARD BASCETTA, also known as Shotgun, and others as yet unknown have been and are now committing offenses involving the conducting, financing, managing, supervising, directing or owning all or part of an illegal gambling business in violation of Sections 225.0 through 225.40 of the New York Penal Law and also in violation of Section 371 and 1955 of Title 18, United States Code.

Section 803 of Title 18, entitled, "Syndicated Gambling" of the Organized Crime Control Act of 1970, Public Law 91-452, 91st Congress, approved October 15, 1970, amended Chapter 95, Title 18, United States Code, by adding a new section, section 1955, Prohibition of Illegal Gambling Businesses. Section 801 of Title VIII of the Act contains special finding that illegal gambling involves widespread use of and has an effect upon interstate commerce and the facilities thereof.

*Charlie J. Parsons*  
CHARLIE J. PARSONS

Subscribed to and sworn to

before me this 12<sup>th</sup> day

of April, 1973.

*James R. Lantieri*  
*W. N. District Judge*  
*Eastern District of New York*  
*5:52 PM*




IN THE MATTER OF THE APPLICATION  
OF THE UNITED STATES OF AMERICA FOR AN ORDER  
AUTHORIZING THE INTERCEPTION OF  
ORAL COMMUNICATIONS

A303

ORDER  
73-B-3

ORDER

Pursuant to the statement of facts related to this Court by Fred Barlow, Special Attorney (to be supplemented by affidavit May 3, 1972), and pursuant to Judge Bartels' Order of April 12, 1973, authorizing interception of oral communications at the Highway Lounge, 362 Metropolitan Ave., Brooklyn, N.Y., it is ordered that the FBI is authorized to enter the subject premises the night of May 2-3, 1973, to effect any extension of Judge Bartels' Order of April 12, 1973.

  
USDO  
EDNY  
May 2, 1973







STATE OF NEW YORK     )  
                                  )SS.:  
COUNTY OF NEW YORK    )

Renee Kenrow, being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at New York, New York. That on the 8th day of February, 1977 deponent served the within Volumes I and II of the Joint Appendix to Brief for Appellants upon Michael E. Moore, Esq., the attorney for the United States in this action, at c/o T. George Gilinsky, P.O. Box 899, Ben Franklin Station, Washington, D.C. 20044, the address designated by said attorney for that purpose by depositing same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States post office department within the State of New York.

Renee Kenrow

Sworn to before me this  
8th day of February, 1977.

Gloria J. Horn  
Notary Public

GLORIA J. HORN  
Notary Public, State of New York  
24-2047423  
Qualified in Kings County  
Commission Expires March 31, 1979